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ART. III.—*Documents and Proceedings relating to the Formation and Progress of a Board in the City of New York, for the Emigration, Preservation, and Improvement of the Aborigines of America.* July 22, 1829.

THE destiny of the Indians, who inhabit the cultivated portions of the territory of the United States, or who occupy positions immediately upon their borders, has long been a subject of deep solicitude to the American government and people. Time, while it adds to the embarrassments and distress of this part of our population, adds also to the interest which their condition excites, and to the difficulties attending a satisfactory solution of the question of their eventual disposal, which must soon pass *sub judice*. That the Indians have diminished, and are diminishing, is known to all who have directed their attention to the subject. For any purpose we have in view, it is not necessary to go back to the remote periods of aboriginal history, and investigate the extent of the population, and their means of subsistence, and to calculate the declension of the one, and the reduction of the other, as the white man advanced in his progress from the seat covered by a buffalo robe,* first given to him on the shore of the ocean, to the dominion he now enjoys. Such an inquiry would be vain and useless. The materials for any comparative estimate of Indian population at different periods, are scanty and unsatisfactory, collected without care, and combined without judgment. They are in fact but vague estimates, received and given in a spirit of exaggeration, and serving little more than to exhibit the probable relative strength of the various tribes.

But although precision be unattainable, and, we may add, unimportant, yet the principal facts are indisputable. The Indians have gradually decreased since they became first known to the Europeans. The ratio of this diminution may have been greater or less, depending on the operation of causes we shall presently investigate; but there is no just reason to believe, that any of the tribes, within the whole extent of our boundary, has been increasing in numbers at any period since they have been known to us. This opinion is expressed by

* The Indian tradition respecting the quantity of land first given to the white men.

the Superintendents of Indian affairs, in the report submitted to Congress at its last session, by the war department; and from the favorable opportunities possessed by those officers, of acquiring correct information upon this subject, their opinion must carry with it considerable authority.* The whole amount of Indian population, within the United States, east of the Mississippi, is estimated in this report at 105,060, and is divided as follows.

Within the states of Maine, Massachusetts, Rhode Island, Connecticut, and Virginia	2,573
The state of New York	4,820
Pennsylvania	300
North Carolina	3,100
South Carolina	300
Georgia	5,000
Tennessee	1,000
Ohio	1,877
Mississippi	23,400
Alabama	19,200
Indiana	4,050
Illinois	5,900
Territory of Michigan	29,450
Florida	4,000
	105,060

It will be seen, that in the original states the primitive stock has been reduced to 16,093 individuals, and that three fourths of the number now surviving, in the whole of the vast country east of the river Mississippi, are found in the states of Alabama and Mississippi, and in the Territory of Michigan, where the pressure upon them is now beginning to be felt, and will bring with it the usual process of deduction.

In the same report, the number of Indians west of the Mississippi is thus estimated,

Between the Mississippi and the Rocky Mountains	108,070
Within the ranges of the Rocky Mountains	20,000
West of the Rocky Mountains	80,000

Making a general aggregate of 313,130, within the United

* We are aware of the statements which have been made concerning the increase of population among the Cherokees, but we have seen no satisfactory evidence of it.

States, extending over twenty-four degrees of latitude and fifty-eight degrees of longitude. And these are the remnants of the primitive people, who, only two centuries ago, possessed this vast country; who found in the sea, the lakes, the rivers, and forests, means of subsistence sufficient for their wants.

It would be miserable affectation to regret the progress of civilization and improvement, the triumph of industry and art, by which these regions have been reclaimed, and over which freedom, religion, and science are extending their sway. But we may indulge the wish, that these blessings had been attained at a smaller sacrifice; that the aboriginal population had accommodated themselves to the inevitable change of their condition, produced by the access and progress of the new race of men, before whom the hunter and his game were destined to disappear. But such a wish is vain. A barbarous people, depending for subsistence upon the scanty and precarious supplies furnished by the chase cannot live in contact with a civilized community. As the cultivated border approaches the haunts of the animals, which are valuable for food or furs, they recede and seek shelter in less accessible situations. The number of these animals may be diminished, but cannot be increased, by the interference of men; and when the people, whom they supply with the means of subsistence, have become sufficiently numerous to consume the excess annually added to the stock, it is evident, that the population must become stationary, or, resorting to the principal instead of the interest, must, like other prodigals, satisfy the wants of to-day at the expense of to-morrow.

The general principles regulating the population of the human race are as applicable to wandering tribes, deriving their support from the bounties of nature, as to stationary and civilized societies, where art and industry can increase almost indefinitely those products which minister to their wants. Population and production must eventually preserve a just ratio to each other. Whether the tribes upon this continent had attained the *maximum* of their population, before the discovery, we have not now the means of ascertaining. It is certain, however, as well from a consideration of their mode of life, as from a careful examination of the earlier narratives, that, greatly as they exceeded their present numbers, they were yet thinly scattered over the country. There is no reason to believe, that vegetable productions were ever cultivated to any

considerable extent by the Indians, or formed an important part of their food. Corn, and beans, and pumpkins were indigenous to the country, and were probably raised in small quantities around each Indian village. But they were left to the labor of the women, whose only instrument of agriculture was a clam-shell, or the shoulder-blade of a buffalo, tied to a stick. Their habits of life were then what they now are. They returned from their hunting grounds in the spring, and assembled in their villages. Here their few vegetables were planted. But although the seed-time came, no harvest followed; for before their corn was ripe, it was generally consumed, with that utter recklessness of the future, which forms so prominent and unaccountable a feature in their character. As the autumn approached, they separated and repaired to their *wintering* grounds, where, during eight months of the year, they were engaged alternately in the chase, and in those relaxations and amusements, peculiar to the condition of the hunter. This was the annual round of aboriginal life.

It is obvious, that the reduction or disappearance of the game, consequent upon the conversion of forests into fields, and the gradual advance of a civilized people, must have soon begun to press upon the means of subsistence, on which the Indians mainly depended. Other circumstances coöperated in the work of destruction. Fire-arms were introduced, and greatly facilitated the operations of the hunter. Articles of European merchandise were offered to the Indians, and they were taught the value of their furs, and encouraged to procure them. New wants arose among them. The rifle was found a more efficient instrument than the bow and arrow; blankets were more comfortable than buffalo robes; and cloth, than dressed skins. The exchange was altogether unfavorable to them. The goods they received were dear, and the peltry they furnished was cheap. A greater number of animals was necessary for the support of each family, and increased exertion was required to procure them. We need not pursue this subject further. It is easy to see the consequences, both to the Indians and their game.

Herds of buffaloes were once found upon the shore of Lake Erie, and at the base of the Allegany mountains. They have now receded to the plains beyond the Mississippi, and are every year migrating still further west. A few years since, they were unknown in the Rocky Mountains. They have now

passed that barrier, and will ere long reach the Pacific. The beaver has nearly disappeared upon all our borders, and hunters and trappers have followed them to the waters of the Columbia. Even the common red deer, once so abundant, is rarely found east of the Allegany, and is becoming scarce in the western regions.

But a still more powerful cause has operated to produce this diminution in the number of the Indians. Ardent spirits have been the bane of their improvement; one of the principal agents in their declension and degradation. In this proposition we include only those tribes in immediate contact with our frontier settlements, or who have remained upon *reservations* guarantied to them. It has been found impracticable to prevent the sale of spirituous liquors to those who are thus situated. The most judicious laws are eluded or openly violated. The love of spirits, and the love of gain, conspire to bring together the buyer and the seller. As the penalties become heavier, and the probability of detection and punishment stronger, the prohibited article becomes dearer, and the sacrifice to obtain it greater. We shall not attempt to investigate the cause of the inordinate attachment displayed by the Indians to ardent spirits. It is probably without a parallel in all the history of man, and is certainly so, with very few exceptions, in the whole range of their own society. There is a singular uniformity in its operation, destroying the effect of individual character, and substituting a common standard of feeling and deportment. These facts are known to all, to whom the Indians themselves are known. This predisposition was the subject of observation and regret two centuries ago; and the earlier historians and travellers, while they furnish the record of its existence, furnish also the evidence of its overpowering influence and destructive consequences.

Our object, as will be seen in the sequel, is not to trace the operation of all the causes which have contributed to the diminution of the population of the Indians. We confine ourselves to those which may be fairly attributed to the coming of the Europeans among them, and which are yet exerting their influence, wherever the two races are placed in contact. As we shall attempt eventually to prove, that the only means of preserving the Indians from that utter extinction which threatens them, is to remove them from the sphere of this influence, we are desirous of showing, that no change has occurred, or proba-

bly can occur, in the principles or practice of our intercourse with them, by which the progress of their declension can be arrested, so long as they occupy their present situation.

The consequences of their own wars, therefore, do not fall within this inquiry. These were in active operation long before our forefathers landed upon the continent, and their extent and effects have been gradually circumscribed by our interposition, until the war-hatchet has been buried by many of the tribes which are near us; and if not buried, will, we trust, ere long be taken from those which are remote.

To the operation of the physical causes, which we have described, must be added the moral causes connected with their mode of life, and their peculiar opinions. Distress could not teach them providence, nor want industry. As animal food decreased, their vegetable productions were not increased. Their habits were stationary and unbending; never changing with the change of circumstances. How far the prospect around them, which to us appears so dreary, may have depressed and discouraged them, it is difficult to ascertain, as it is also to estimate the effect upon them of that superiority, which we have assumed and they have acknowledged. There is a principle of repulsion in ceaseless activity, operating through all their institutions, which prevents them from appreciating or adopting any other modes of life, or any other habits of thought or action, but those which have descended to them from their ancestors.

That the aboriginal population should decrease under the operation of these causes, can excite no surprise. From an early period, their rapid declension and ultimate extinction were foreseen and lamented, and various plans for their preservation and improvement were projected and pursued. Many of them were carefully taught at our seminaries of education, in the hope that principles of morality and habits of industry would be acquired, and that they might stimulate their countrymen by precept and example to a better course of life. Missionary stations were established among various tribes, where zealous and pious men devoted themselves with generous ardor to the task of instruction, as well in agriculture and the mechanic arts, as in the principles of morality and religion. The Roman Catholic Church preceded the Protestant, in this labor of charity; and the *Lettres Edifiantes* are monuments of her zeal and liberality. Unfortunately, they are monuments also

of unsuccessful and unproductive efforts. What tribe has been civilized by all this expenditure of treasure, and labor, and care? From the martyrdom of Le Père Brebeuf, in 1649, upon the shore of Lake Huron, to the death of the last missionary, who sacrificed himself in a cause as holy as it has proved hopeless, what permanent effect has been produced? Year after year sanguine anticipations have been formed, to be succeeded by disappointment and despondency. We are flattered with accounts of success, with explanations for the past and hopes for the future; and this, without the slightest intention to deceive. But the subject itself is calculated to excite these expectations. There are always individuals attending these establishments, who give fair promise of permanent improvement and usefulness. And as these prospects are blighted, others succeed to excite the same hopes, and to end in the same disappointment.

In the 'Remarks upon Indian Reform,' written by the Rev. Isaac McCoy, to whom and to whose labors and opinions we shall hereafter refer, there are some views upon this subject, so apposite and correct, that we shall submit them to our readers. It must be borne in mind, that the writer is a missionary, and a pious and laborious one.

'Societies and their missionaries should carefully guard against what we might term *high coloring*. We are naturally fond of telling the more favorable parts of the story, and rather desire the unfavorable parts to sink into oblivion. I could readily point to statements respecting missionary operations, which approximate this character too nearly. But I deem it sufficient to mention only this general and undoubted fact, viz. a man in Europe, by reading the whole of our missionary journals, narratives, reports, &c. would be apt to suppose the success of our labors was such, that the aborigines of our country were rapidly improving their condition, both in respect to Christianity and civilization. How would such a one be disappointed on visiting these regions to find, that, instead of improvement in general, they were rapidly decreasing in numbers, and perishing under their accumulating misfortunes.'

The Wyandots, who occupied so much of the care of the Roman Catholic Missionaries, have dwindled to about 700 individuals, who are seated upon a *reservation*, near the centre of the state of Ohio. Serious divisions of opinion exist among them, and a sedentary life begins to be irksome. Already

their attention is directed to the trans-Mississippian regions. The Delawares, to whom the Moravians so long and faithfully devoted themselves, have already passed over the Mississippi, where they are resuming their pristine habits. A small society yet exists in Upper Canada; but they are diminishing, and certainly their appearance indicates neither prosperity nor improvement. The Iroquois or Six Nations, the Shawnese, the Miamies, the Potawatamies, and the Ottawas, all of whom have engaged the care and attention of individuals and societies devoted to this object, furnish no evidence of any melioration in their condition, which has resulted from the prosecution of these efforts.

The cause of this total failure cannot be attributed to the nature of the experiment, nor to the character, qualifications, or conduct, of those who have directed it. The process and the persons have varied, as experience suggested alterations in the one, and a spirit of generous self-devotion supplied the changes in the other. But there seems to be some insurmountable obstacle in the habits or temperament of the Indians, which has heretofore prevented, and yet prevents, the success of these labors. Whatever this may be, it appears to be confined to the tribes occupying this part of the continent. In Mexico and South America, a large portion of the aboriginal race has accommodated itself to new circumstances, and forms a constituent part of the same society with their conquerors. Under the Spanish *régime* they existed as a degraded cast; but still they were sedentary, living under the protection of the laws, and providing by labor for their comfortable subsistence.

In other parts of the continent, particularly in California and Paraguay, where the Spanish sway had but a nominal existence, the Jesuits succeeded in collecting the Indians into regular societies, in improving their morals and condition, and in controlling and directing their conduct. In the usual progress of conquest, where permanent possession is retained, the victors and vanquished become connected together, and if they do not form one people, they yet acknowledge obedience to the same laws, and look to them for protection. But from the St Lawrence to the gulph of Mexico, under the French, or British, or Spanish, or American rule, where is the tribe of Indians, who have changed their manners, who have become incorporated with their conquerors, or who have exhibited any just estimate of the improvements around them, or any wish to participate in them?

The interesting nature of this subject, and the views we shall present to our readers, demand, that the sources of our information should not be withheld from them. Our Indian relations generally are a concern, not of speculation, but of action; and a just and intimate knowledge of the Indians, of their mode of life, of their peculiar opinions, and of all that they feel, and suffer, and want, can only be acquired in their villages, camps, and hunting grounds. They stand alone among the great family of man, a moral phenomenon, to be surveyed and observed, rather than to be described and explained. Our personal intercourse with them has been confined almost wholly to the tribes in the Northwestern regions of the United States, to the Iroquois, the Wyandots, the Delawares, the Shawnese, the Miamies, the Kickapoos, the Sacs, the Foxes, the Potawatamies, the Ottawas, the Chippewas, the Ioways, the Menomonies, the Winebagoes, and the Sioux. Our general facts and deductions will be principally founded upon what we have seen and heard among these tribes. With the Southern Indians, the Creeks, Cherokees, Choctaws, and Chickasaws, we have not had the same opportunities of personal communication and observation. Of the Creeks and Cherokees, however, we have some knowledge; and so far as our personal intercourse with them has extended, they presented to us the same external appearance and the same general traits of character, which elsewhere mark the race of red men. And this similarity, we may almost say identity, of appearance and character, which prevails among our Indian tribes, is not the least striking of the peculiarities which designate them as a distinct variety of the human race. Speaking languages, which, in the present state of our knowledge of them, appear to spring * from four primitive stocks, and which are broken into many different dialects, in all the essential characteristics of mind, manners, and appearance, they are one people.†

We have made the inquiry respecting the permanent advantage, which any of the tribes have derived from the attempts to civilize them, with a full knowledge of the favorable

* We mean to confine this observation to the tribes east of the Mississippi.

† This fact was known to Dr Robertson. 'The qualities belonging to the people of all the different tribes, have such a near resemblance, that they may be painted with the same features.'—*Hist. Amer.* B. IV.

reports that have been circulated concerning the Cherokees. Limited as our intercourse with those Indians has been, we must necessarily draw our conclusions respecting them from facts which have been stated to us, and from the general resemblance they bear to the other cognate branches of the great aboriginal stock. It is due to truth, that this admission should be made.

That individuals among the Cherokees have acquired property, and with it more enlarged views and juster notions of the value of our institutions, and the unprofitableness of their own, we have little doubt. And we have as little doubt, that this change of opinion and condition is confined, in a great measure, to some of the *half-breeds* and their immediate connexions. These are not sufficiently numerous to affect our general proposition; and the causes, which have led to this state of things, are too peculiar ever to produce an extensive result. An analysis of these causes is not within the task we have assigned to ourselves. They have been operating for many years, and among the most prominent of them has been the introduction of slaves, by which means that unconquerable aversion to labor, so characteristic of all savage tribes, can be indulged. And another was the great road from Natchez through their country to the states on the Ohio, along which the persons employed in the trade to New Orleans returned, before the introduction of steam navigation. Favorable positions upon this road were occupied by some of their influential men, and the scanty supplies furnished to the traveller were sold at high prices. The benefit was exclusively confined to these persons. But, we believe, the great body of the people are in a state of helpless and hopeless poverty. With the same improvidence and habitual indolence, which mark the northern Indians, they have less game for subsistence, and less peltry for sale. We doubt whether there is, upon the face of the globe, a more wretched race than the Cherokees, as well as the other southern tribes, present. Many of them exhibit spectacles as disgusting as they are degrading. Only three years since, an appropriation was made by Congress, upon the representations of the authorities of Florida, to relieve the Indians there from actual starvation.

We are as unwilling to underrate, as we should be to overrate, the progress made by these Indians in civilization and improvement. We are well aware, that the constitution of the

Cherokees, their press, and newspaper, and alphabet, their schools and police, have sent through all our borders the glad tidings, that the long night of aboriginal ignorance was ended, and that the day of knowledge had dawned. Would that it were so. None would rejoice more sincerely than we should. But this great cause can derive no aid from exaggerated representations; from promises never to be kept, and from expectations never to be realized. The truth must finally come, and it will come with a powerful reaction. We hope that our opinion upon this subject may be erroneous. But we have melancholy forebodings. That a few principal men, who can secure favorable cotton lands, and cultivate them with slaves, will be comfortable and satisfied, we may well believe. And so long as the large annuities received from the United States, are applied to the support of a newspaper and to other objects, more important to the rich than the poor, erroneous impressions upon these subjects may prevail. But to form just conceptions of the spirit and objects of these efforts, we must look at their practical operation upon the community. It is here, if the facts which have been stated to us are correct, and of which we have no doubt, that they will be found wanting.

The relative condition of the two races of men, who yet divide this portion of the continent between them, is a moral problem involved in much obscurity. The physical causes we have described, exasperated by the moral evils introduced by them, are sufficient to account for the diminution and deterioration of the Indians. But why were not these causes counteracted by the operation of other circumstances? As civilization shed her light upon them, why were they blind to its beams? Hungry or naked, why did they disregard, or regarding, why did they neglect, those arts by which food and clothing could be procured? Existing for two centuries in contact with a civilized people, they have resisted, and successfully too, every effort to meliorate their situation, or to introduce among them the most common arts of life. Their moral and their intellectual condition have been equally stationary. And in the whole circle of their existence, it would be difficult to point to a single advantage which they have derived from their acquaintance with the Europeans. All this is without a parallel in the history of the world. That it is not to be attributed to the indifference or neglect of the whites, we have already shown. There must then be an inherent difficulty, arising

from the institutions, character, and condition of the Indians themselves.

On this subject the world has had enough of romantic description. It is time for the soberness of truth and reality. Rousseau and the disciples of his school, with distempered imaginations and unsettled reason, may persuade themselves of the inferiority of civilized to savage life; but he who looks abroad over the forests of our country, and upon the hapless beings who roam through them, will see how much they endure, that we are spared. It is difficult to conceive that any branch of the human family can be less provident in arrangement, less frugal in enjoyment, less industrious in acquiring, more implacable in their resentments, more ungovernable in their passions, with fewer principles to guide them, with fewer obligations to restrain them, and with less knowledge to improve and instruct them. We speak of them as they are; as we have found them after a long and intimate acquaintance; fully appreciating our duties and their rights, all that they have suffered and lost, and all that we have enjoyed and acquired.

It is not our intention to undertake a delineation of the Indian character. We shall content ourselves with sketching such features as may serve to explain the difficulty which has been experienced in extending to them the benefit of our institutions, and in teaching them to appreciate their value.

Every Indian submits in youth to a process of severe mental and corporeal discipline. During its course, frequent intervals of long and rigid abstinence are enjoined, by which the system is reduced, and the imagination rendered more susceptible. Dreams are encouraged, and by these the novice is taught both his duty and his destiny, and in them his guardian *manitou*, who is to protect him in life and attend him in death, appears in the shape of some familiar animal, thenceforth to be the object of his adoration. He is taught to despise death, and during his whole life he regards it with indifference. An Indian seldom commits suicide, not because the grave does not offer him a refuge, but because patience and fortitude are the first duties of a warrior, and none but a coward can yield to pain or misfortune. This sternness of purpose is another lesson early taught.

He learns also to despise labor, to become a warrior and a hunter, to associate the idea of disgrace with any other em-

ployment, and to leave to the women all the ordinary duties of life. He is a stern and unbending fatalist. Whatever of good or of evil may happen, he receives it with imperturbable calmness. If misfortunes press upon him, which he cannot resist, he can die; and he dies without a murmur. The opinions, traditions, and institutions of his own tribe, are endeared to him by habit, feeling, and authority; and from early infancy he is taught, that the Great Spirit will be offended by any change in the customs of his red children, which have all been established by him. Reckless of consequences, he is the child of impulse. Unrestrained by moral considerations, whatever his passions prompt he does. Believing all the wild and debasing superstitions which have come down to him, he has no practical views of a moral superintendence to protect or to punish him. Government is unknown among them; certainly, that government which prescribes general rules and enforces or vindicates them. The utter nakedness of their society can be known only by personal observation. The tribes seem to be held together by a kind of family ligament; by the ties of blood, which in the infancy of society are stronger as other associations are weaker. They have no criminal code, no courts, no officers, no punishments. They have no relative duties to enforce, no debts to collect, no property to restore. They are in a state of nature, as much so as it is possible for any people to be. Injuries are redressed by revenge, and strength is the security for right.

The faithful portrait of the Indians drawn by Dr Robertson in the fourth book of his History of America, is creditable alike to his industry and sagacity. It evinces the hand of a master, and we are tempted to lay before our readers a few detached extracts from that work. They delineate the red man as we have found him; neither elevating him above his true position, nor depressing him below it; and we bear our testimony to the general fidelity of this description. Among the authorities to which the distinguished author frequently refers, is the able and judicious historian of New France, Charlevoix.

'What they suffer one year does not augment their industry, or render them more provident to prevent similar distresses.' 'Such is their aversion to labor, that neither the hope of future good, nor the apprehension of future evil, can surmount it.' 'All the people of America, if we except some small tribes near the Straits of Magellan, whether natives of the tor-

rid zone, or inhabitants of its more temperate regions, or placed by a harder fate in the severe climates towards its northern or southern extremity, appear to be equally under the dominion of this appetite [love of ardent spirits].' 'The rude Americans, fond of their own pursuits, and satisfied with their own lot, are equally unable to comprehend the intention or utility of the various accommodations, which, in more polished society, are deemed essential to the comfort of life.' 'This preference of their own manners is conspicuous on every occasion.' 'Men thus satisfied with their condition, are far from any inclination to relinquish their own habits, or to adopt those of civilized life.' 'Even where endeavors have been used to wean a savage from his own customs, and to render the accommodations of polished society familiar to him; even when he has been allowed to taste of those pleasures, and been honored with those distinctions, which are the chief objects of our desires, he droops and languishes under the restraint of laws and forms, he seizes the first opportunity of breaking loose from them, and returns with transport to the forest or the wild, where he can enjoy a careless and uncontrolled freedom.'

It is easy, in contemplating the situation of such a people, to perceive the difficulties to be encountered in any effort to produce a radical change in their condition. The *fulcrum* is wanting, upon which the lever must be placed. They are contented as they are; not contented merely, but clinging with a death-grasp to their own institutions. This feeling, inculcated in youth, strengthened in manhood, and nourished in age, renders them inaccessible to argument or remonstrance. To roam the forests at will, to pursue their game, to attack their enemies, to spend the rest of their lives in listless indolence, to eat inordinately when they have food, to suffer patiently when they have none, and to be ready at all times to die; these are the principal occupations of an Indian. But little knowledge of human nature is necessary, to be sensible how unwilling a savage would be to exchange such a life for the stationary and laborious duties of civilized society.

Experience has shown, that the Indians are steadily and rapidly diminishing. And the causes of this diminution, which we have endeavored to investigate, are yet in constant and active operation. It has also been shown, that our efforts to stand between the living and the dead, to stay this tide which is spreading around them and over them, have long been fruit-

less, and are now hopeless. And equally fruitless and hopeless are the attempts to impart to them, in their present situation, the blessings of religion, the benefits of science and the arts, and the advantages of an efficient and stable government. The time seems to have arrived, when a change in our principles and practice is necessary; when some new effort must be made to meliorate the condition of the Indians, if we would not be left without a living monument of their misfortunes, or a living evidence of our desire to repair them.

A retrospective view of the relations which have existed between the civilized communities, planted or reared upon this continent, and the Indians, and an examination of the principles of their intercourse, may assist us in the further prosecution of this inquiry. Not that their example or authority can justify us in any system of oppression, but that maxims of jurisprudence, applied and enforced by wise and learned men, and practically adopted by the rulers of the old world for the government of the new, may be fairly presumed to be founded in the just and relative rights of the parties. If the Christian and civilized governments of Europe asserted jurisdiction over the aboriginal tribes of America, and, under certain limitations, a right to the country occupied by them, some peculiar circumstances must have existed to vindicate a claim, at first sight revolting to the common justice of mankind. And if these circumstances were not then, and are not now, sufficiently powerful to justify such pretensions, their interference was culpable, and so would be ours. The Indians are entitled to the enjoyment of all the rights which do not interfere with the obvious designs of Providence, and with the just claims of others. Like many other practical questions, it may be difficult to define the actual boundary of right between them and the civilized states, among whom or around whom they live. But there are two restraints upon ourselves, which we may safely adopt,—that no force should be used to divest them of any just interest they possess, and that they should be liberally remunerated for all they may cede. We cannot be wrong while we adhere to there rules.

The discovery of the western continent by Columbus opened to the maritime states of Europe new prospects of gain. It is well known, that their first establishments were made with a view to commerce and to the collection of gold. The system of colonization was gradually introduced, as its advan-

tages were foreseen or disclosed. At a very early period, so early in fact, that the principle itself must have existed in some shape or other in the public law of Europe, before the discovery,* it was assumed by all the nations prosecuting these voyages, that the first discoverer of unknown regions should be entitled to their permanent possession. And as has been well observed by Chancellor Kent, if this question were now open for discussion, 'the reasonableness of it might be strongly vindicated on broad principles of policy and justice, drawn from the right of discovery; from the sounder claims of agricultural settlers over those of hunters; and from the loose and frail, if not absurd title of wandering savages to an immense continent, evidently designed by Providence to be subdued and cultivated, and to become the residence of civilized nations.' †

There can be no doubt, and such are the views of the elementary writers upon the subject, that the Creator intended the earth should be reclaimed from a state of nature and cultivated; that the human race should spread over it, procuring from it the means of comfortable subsistence, and of increase and improvement. A tribe of wandering hunters, depending upon the chase for support, and deriving it from the forests, and rivers, and lakes, of an immense continent, have a very imperfect possession of the country over which they roam. That they are entitled to such supplies as may be necessary for their subsistence, and as they can procure, no one can justly question. But this right cannot be exclusive, unless the forests which shelter them are doomed to perpetual unproductiveness. Our forefathers, when they landed upon the shores of this continent, found it in a state of nature, traversed, but not occupied, by wandering hordes of barbarians, seeking a precarious subsistence, principally from the animals around them. They appropriated, as they well might do, a portion of this fair land to their own use, still leaving to their predecessors in occupation all that was needed, and more than was used by them.

* In the commission granted to the Cabots in 1496, they are authorized to discover and take possession of countries *unknown to Christian people.* And in the famous bull of Pope Alexander the Sixth, by which he gives Ferdinand and Isabella the New World, he excepts what might have been in possession of some Christian power before 1493.

† Commentaries on American Law, Vol. III. p. 312.

In the progress of society in the old world, no similar circumstances had existed to render necessary any inquiry into the relative rights and duties of a civilized and barbarous people, thus situated, or to settle the principles of intercommunication between them. The nations of Christendom agreed in the general assumption of sovereignty, and of the ultimate dominion of the soil, as the consequence of discovery; but their farther pretensions seem to have been a matter of internal policy, depending on the peculiar views of each power. 'The relations,' says Chief Justice Marshall, in delivering the opinion of the Supreme Court, in the case of Johnson *versus* McIntosh, 'which were to exist between the discoverer and the natives, were to be regulated by themselves. The rights thus acquired, no other power could interpose between.' Many subtile questions, arising out of these undefined and sometimes undefinable relations, have been agitated and warmly discussed. The controversy at Ghent, between our Commissioners and the British, wherein the latter endeavored to justify the interference of their government in the concerns of our Indians, by a resort to abstract principles and nice investigations into the natural rights of the parties, must be within the recollection of all our readers. The American ministers, by historical deductions, and by an appeal to the uniform pretensions and practice of the British, triumphantly repelled the new, and, we may add, most mischievous claim, then first advanced. They showed, and showed conclusively, that whatever was the relative situation of the United States, and of the aboriginal tribes inhabiting their territories, it was a question affecting the parties alone; and that all the nations of Christendom, holding colonies where any of the primitive race yet remain, had excluded, with jealous care, every other power from any interference in their affairs. And this rigid exclusion is founded in the necessary principles of self-defence, and in the facility with which the Indians yield to any persuasion or impression, coöperating with their innate love of war. Let this principle be once conceded, and its practical application established upon the borders, and the Indians taught to look across the frontier for counsel and assistance, and we may abandon all hope of tranquillity, until our power is effectually employed in breaking the connexion, and in bringing them back to their pristine relations.

The position occupied by the Indians is an anomaly in the political world, and the questions connected with it are emi-

nently practical, depending upon peculiar circumstances, and changing with them. 'It is the law of the land,' says Chancellor Kent, speaking of the titles derived from conquest and discovery, 'and no court of justice can permit the right to be disturbed by speculative reasonings on abstract rights.'* 'We do not mean to say,' observes the Supreme Court of the State of New York, 'that the condition of the Indian tribes, at former and remote periods, has been that of subjects or citizens of this state. Their condition has been gradually changing, until they have lost every attribute of sovereignty, and become entirely dependent upon, and subject to, our government.' †

Our system of intercourse has resulted from our superiority in physical and moral power. 'The peculiar character and habits of the Indian nations, rendered them incapable of sustaining any other relation with the whites, than that of dependence and pupilage. There was no other way of dealing with them, than that of keeping them separate, subordinate, and dependent, with a guardian care thrown around them for their protection.' ‡ All this, and much more than this, is incontrovertible. They would not, or rather they could not, coalesce with the strangers who had come among them. There was no point of union between them. They were as wild, and fierce, and irreclaimable, as the animals, their co-tenants of the forests, who furnished them with food and clothing. What had they in common with the white man? Not his attachment to sedentary life; not his desire of accumulation; not his submission to law; not his moral principles, his intellectual acquirements, his religious opinions. Neither precept nor example, neither hopes nor fears, could induce them to examine, much less to adopt their improvements. The past and the future being alike disregarded, the present only employs their thoughts. They could not, therefore, become an integral part of the people who began to press upon them, as time and circumstances have elsewhere generally united the conquerors and the conquered, but still remained in juxtaposition, and in such circumstances as rendered inevitable a continued intercourse between them and their civilized neighbors. The result of all this was necessarily to compel the latter to prescribe, from

* Commentaries on American Law, Vol. III. p. 310.
† Johnson's Reports, Vol. XX. p. 193.
‡ Kent's Commentaries, Vol. III. p. 310.

time to time, the principles which should regulate the intercourse between the parties; keeping in view the great objects to be attained for their mutual benefit,—that the propensity of the Indians for war should be checked, and themselves restrained within reasonable limits; that they should be protected in all their just rights, and secured from their own improvidence, as well as from the avarice of the whites; and that the territory should be occupied for permanent improvement, whenever it was necessary for the one party, and could be spared without injury by the other.

The nature of the title, by which the Indians held their lands, is not easily reconciled to the principles by which the tenures of this description of property are regulated among civilized nations. Mr Adams, in the argument of the cause of Fletcher and Peck, before the Supreme Court, describes it as 'mere occupancy for the purpose of hunting. It is not like our tenures; they have no idea of a title to the soil itself. It is overrun by them, rather than inhabited.'

In accordance with this view, the ultimate dominion of the soil was asserted, by the European powers, to attach to the sovereign making the discovery. 'Thus has our whole country been granted by the Crown, while in the occupation of the Indians. These grants purport to convey the soil, as well as the right of dominion, to the grantees.' 'It has never been objected to this, or any similar grant, that the title as well as possession, was in the Indians, and that it passed nothing on that account.'* A difference is however observable among different nations possessing colonies in America, in their practical application of this claim of soil as well as of jurisdiction. The French and Spanish, following up the principle of '*pupilage*' and guardianship, judged for themselves as well as for the Indians, when land was wanted by one party and could be spared by the other, and what consideration should be paid for the right of occupation. We find no evidence of any treaties of cession formed between them and the Indians, nor even of any important councils, where the subject might be discussed, and the formal assent of the possessors obtained. And if we look to the influence acquired by the French over the Indians, in every part of the continent where they pene-

* Opinion of the Supreme Court of the United States, Johnson *versus* McIntosh.—Wheaton's Reports, Vol. VIII. p. 579.

trated, to the strong ties of friendship which connected them, and to the grateful recollection which is yet cherished of the French dominion, we shall be inclined to believe, that this system of acquisition could not be unsuitable to the condition of the parties. And it is our deliberate conviction, founded on some experience, that the Indians would have been at this day happier, and would have possessed far more useful and durable memorials of their sacrifices, had the government of the United States adopted a similar plan. We are prepared to expect, that many worthy and benevolent men will be shocked at a proposition, which would leave it to one party to judge what extent of territory should be yielded by the other, and what consideration should be allowed. This sentiment, so natural in cases of ordinary contracts, is the result of an entire misconception of the moral and intellectual attainments of the Indians. An artificial standard is established, and by this their claims to self-government and self-management are most erroneously adjusted. In the ordinary arrangements of an Indian treaty, the parties are placed in the relative condition of buyer and seller. Commissioners are appointed, charged with the interests of the United States, and instructed to procure a cession of land. These commissioners, feeling like other men for the wants and privations of the Indians, and commiserating their situation, are yet required by their duty to use all just and proper methods to effect the object of their mission. If the Indians, with the reckless improvidence which belongs to the savage character, demand a large portion of the consideration immediately, this demand must be granted; and stipulations must be inserted, of little permanent advantage to them. The commissioners occupy an arduous and responsible station. It is difficult for them to fix the value of the cession. As agents of one party, it is most natural they should endeavor to enlarge the extent of the purchase, and reduce the consideration demanded for it. But as the representatives of a powerful and intelligent nation, negotiating with a feeble, depressed, and ignorant remnant of the people, who once held the whole, and yet hold a portion of the country, they cannot disregard the just claims of such a people to protection and kindness. It is probable, as these views predominate at different treaties, that the stipulations in favor of the Indians are more or less liberal. And they would doubtless still oftener assume a decided character of liberality, were not the negotiators ap-

prehensive, that their motives might be arraigned, and themselves accused of favoritism or extravagance.

But instead of this convocation of the Indians and this system of traffic, what a different scene would be presented, were Congress to investigate the necessity and circumstances of each proposed purchase, and decide the consideration which should be allowed, and the various stipulations for the protection and permanent advantage of the Indians. The discussion would take place before the nation, and the decision would be made in view of their responsibility to the public opinion of Christendom and to the judgment of posterity. Who doubts that such a process would be more just and humane, than the practice now pursued.

This practice, however, has been followed since the commencement of our national existence. Under the colonial authorities, councils were generally held by the agents of the government, at which the assent of the Indians was procured to the occupation of tracts of land, granted by the Crown. Formal treaties of cession, however, requiring the ratification of the sovereign authority, were not formed. These seem to have been introduced into the United States alone. And to their introduction may be attributed much of the difficulty which speculative men have encountered in their investigations of this subject. In the ardor of a mistaken benevolence, they have elevated these little Indian communities to an equality with the civilized governments under whose protection they live. That in relaxing the principles of intercourse which many other nations had adopted with the Indians, we have introduced a system difficult to reconcile with our preconceived notions, cannot be disputed. We negotiate treaties with them, and deny their right to enter into an alliance with any other power, or to convey their lands without the assent of our government. We pass laws to punish them for offences committed in their own country, and acknowledge their right to declare war and conclude peace. We regulate their trade, prohibit the sale of strong liquors to them, and its introduction into their country, interdict the passage of our citizens across the boundary, except for specified objects, and forbid and require many other acts to be done for their safety or our own. If we are asked to reconcile these apparent inconsistencies, with what may be termed the natural rights of the parties, or with the consequences which may be logically deduced from

the premises, the answer is obvious. Such a reconcilement is unnecessary. The Indians themselves are an anomaly upon the face of the earth; and the relations, which have been established between them and the nations of Christendom, are equally anomalous. Their intercourse is regulated by practical principles, arising out of peculiar circumstances. Every nation has prohibited the interference of all others in these concerns, and each has assumed the right to restrain the Indians, whenever or wherever the necessary operation of their institutions, or their own licentious passions would endanger the safety of the bordering parties. From Cape Horn to Hudson's Bay, there is not an established government which has not practically acceded to this principle.

In the investigation of the rights secured to the Indians by the various treaties negotiated with them, it is important that a clear conception of the prior relations subsisting between the parties should be formed. When we find the words 'lands,' 'territory,' 'hunting grounds,' &c. used in these instruments, as descriptive of interests reserved or guarantied to the Indians, the extent of their operation must be ascertained by the principles previously or contemporaneously regulating the intercourse between them and us. No terms in these compacts could have been intended to convey the sovereignty of the territory, or the absolute dominion of the soil; for such improvident concessions would be equally inconsistent with all the legislation over them, recorded in our statute-books, and all the transactions with them recorded in our history, and with their own incapacity to protect their property from the efforts of the whites, or *themselves from themselves*. These are not questions of technical construction, to be settled by subtile arguments like too many of those in our own municipal law, but questions of fair and liberal interpretation, depending on the established rights and duties of the parties, and on their obvious intentions, deduced from the circumstances in which they were placed. These reservations and guaranties, whichever they may be, were designed to secure to the Indians their preëxisting rights, as they had enjoyed and we had acknowledged them; to secure to them the possession of their lands; that right of occupancy, which is compatible with their habits and pursuits, and with our immediate jurisdiction and ultimate domain. And this is the interest which was decided by the Supreme Court of the United States, in the case of

Fletcher and Peck, to exist in the Indians, and to be consistent with the paramount claim asserted over them by the general and state governments. And it is not unworthy of remark, that this case was founded upon a grant of land, made by the state of Georgia before the extinction of the Indian title, which grant was ruled by the Court to convey such an interest to the party as would enable him to maintain a suit.

Our compacts with the Indians assume the form of solemn treaties, passing through the ordinary process of ratification. These are obligatory upon them and us, for all the purposes fairly inferable from them, and we trust they will never be violated. But because we have resorted to this method of adjusting some of the questions arising out of our intercourse with them, a speculative politician has no right to deduce from thence their claim to the attributes of sovereignty, with all its powers and duties; and to do many other acts, which would be as certainly reconcilable with the character of independence, as they would be inconsistent with their acknowledged relations to us, and numerous enactments of our own laws.

The qualified submission which we exact from them, yields to the strong claims of humanity, when by their own passions, or *external influence*, they are induced to attack our borders. We relax the stern principles of allegiance, which recognise no right in any person, subject to our jurisdiction and enjoying its protection, to take up arms against the government; and commiserating their inferiority in knowledge and in all the elements of prosperity, we consider them as enemies, and not as traitors; we summon them to the council-house, and not to the judgment-seat. Providence has placed them in contact with us, and with habits and feelings, which render their incorporation into our society impracticable. The sight of the war-flag, or the sound of the war-drum, operates instantly and intensely upon the warriors, and coinciding with their institutions and opinions, irresistibly impels them to war. And yet the merciful course of procedure towards them, which we have adopted, founded on these obvious motives, furnished the British Commissioners at Ghent with an argument to support the doctrine which they advocated, of absolute independence in our aboriginal tribes. These nogotiators were bewildered in metaphysical subtilties, and in the same spirit the general subject has lately been discussed in our own country. Principles are pushed to extremes, without recollecting that our su-

pervising care and control over the Indians give us the right of conducting our intercourse with them, in such manner as may appear to us most conducive to the prosperity of both parties, and that the key to our law and practice will be found in the proposition stated by Chancellor Kent, that 'they are placed under our protection and subject to our coercion, so far as the public safety requires it, and no further.' *

A serious controversy, growing out of our relations with the Indians, has existed in the South for some years. Its progress has been observed with much anxiety in other portions of the union. We have no intention to enter into the consideration of any branch of the subject relating to the rights of the state of Georgia, or the duties of the United States, as deduced from the instrument of cession, by which that state granted her western territory to the general government. The object we have in view does not render this inquiry necessary.

But the situation of the four southern tribes, and more particularly of the Creeks and Cherokees, seems to demand a dispassionate examination; and the considerations connected with it are assuming a character of great importance, both to us and to them.

The pamphlet, the title of which is placed at the head of this article, contains a number of documents which we shall examine in the sequel. The most important are a *talk* from the President of the United States to the Creek Indians, and two letters from the Secretary of War, one to a delegation of the Cherokees, and another to the Secretary of the Society for the Emigration, Preservation, and Improvement of the Indians. These papers disclose the views of the executive branch of the government respecting the interesting topics connected with our Indian relations, which are forcing themselves upon the public attention, in the evidently approaching crisis of our Indian affairs.

The phraseology adopted in the talk of the President, evinces much tact, and just conceptions of the Indian mode of expression and communication. The figures are in strict accordance with Indian usage, deriving their strength from sensible objects, and appealing directly to the feelings of the Indians. The criticism, to be sure, is not worth much; but all

* Gordell *versus* Jackson. Court of Errors of New York.—Johnson's Reports, Vol. XX. p. 740.

who have been in council with them, must have observed the happy effect sometimes produced by a lucky allusion; and considering the forced metaphors, which are *inflicted* upon us, as specimens of aboriginal eloquence, it is well, when we meet just examples of their manner of public address, to notice them.

But it is with the principles and purposes of this document, that our business lies. There is nothing diplomatic in its composition, for it is plain and direct in the views it takes, in the advice it offers, and in the purposes it avows.

The Indians are reminded of the difficulty of living in immediate contact with the white people in a state of harmony; and the diminution and destruction of their game, and consequent distress of their people, are brought to their notice. These are the two obvious topics to be pressed upon the consideration of the Indians, and are calculated, more than all others, to produce an effect upon them. The danger of collision, to which their present situation exposes them, is practically illustrated by a demand, in this very document, of the surrender of some of their people, who, not long since, murdered one of our citizens.

The President offers them a country beyond the Mississippi, to be guarantied to them by the United States, where there can be no interfering claim, and which they can possess 'as long as the grass grows or the water runs.' He also promises 'to protect them, to feed them, to shield them from all encroachment.' He informs them, that the state of Alabama has extended its laws over them, and that those who remain must submit to their operation, but that land will be assigned to them and their families in fee.

The letter of the Secretary of War to the Cherokee delegation, is in conformity with the views taken by the President; but the subject is more fully considered, and some topics are introduced, which are applicable to that tribe only.

This letter was in answer to a communication from the delegation, complaining that the state of Georgia had extended her laws over the tribe, and asserting an exemption from her jurisdiction, as well upon general principles as from the compacts and relations subsisting between them and the United States. In repelling this claim, the Secretary adverts to the alliance subsisting between them and the British government during our revolutionary war, and to the rights of sovereignty which, by the issue of that war, devolved upon the states of North

Carolina and Georgia.* He contends, that the lenity which was shown to that tribe when conquered in war, gave them no rights which they did not previously possess, but left them merely the occupancy of the soil as they had enjoyed it under the British authority.

He then quotes some of the provisions of the treaty of Hopewell, by which the first war between them and the United States was terminated, and deduces from the nature and stipulations of the compact, and from general principles, the conclusion, that their rights were not enlarged, but merely secured by that instrument, and that the sovereignty and ultimate domain remained in the state governments. Our own view of this branch of the subject we have already given; and if the peculiar relations subsisting between us and the Indians are not to control and regulate the construction of our compacts with them, every Indian treaty is a virtual acknowledgment of their independence, and its conclusion with them a practical recognition of their right to all the attributes of sovereignty. If their claims to establish and maintain a government, and to possess the absolute title of the land, are deducible from the course of these negotiations, or from the general nature of the instruments themselves, we have in fact abandoned all just right to restrain or to coerce them. They are as independent as we are, and can come forward and take their stations among the nations of the earth. 'I know of no half-way doctrine on this subject. We have either an exclusive jurisdiction, pervading every part of the state, including the territory held by

* The view here taken is in strict conformity with the doctrine advanced by the Supreme Court of the United States, in the case of Johnson *versus* McIntosh.—Wheaton's Reports, Vol. VIII. p. 508.

'The British government,' says Chief Justice Marshall, 'which was then our government, and whose rights have passed to the United States, asserted a title to all the lands occupied by the Indians, within the chartered limits of the British colonies. It asserted also a limited sovereignty over them, and the exclusive right of extinguishing the title which occupancy gave them.' We presume, that by the term 'United States,' the Chief Justice did not refer to the confederated government merely, but to the states individually, as well as collectively. Some of the rights of the British government passed to the states in one capacity, and some in another. And whatever may be thought of the question, which once so seriously agitated the union, respecting the right to the soil of the western lands, no one ever doubted the claim of the individual states to the land lying within these reasonable and acknowledged chartered limits.

these Indians, or we have no jurisdiction over them whilst acting within their reservations.' *

This is unquestionably the true view of the case. Our right of jurisdiction over them, founded upon the principles we have already discussed, and supported by our own practice, and by that of every nation which has extended its sway over them, is perfect. But in the exercise of this jurisdiction, a just regard is due to the relative situation of the parties, and unnecessary restraints should not be imposed upon the Indians. Of the extent and necessity, however, of these restraints, we must, from the nature of the case, be the judges. And our judgment must be pronounced with that responsibility to the public opinion of the present day, and of posterity, which forms the best security for the virtuous administration of national affairs; recollecting, that 'they are placed under our protection, and subject to our coercion, so far as public safety requires it, and no further.' † And the paramount authority must also determine the manner in which this jurisdiction shall be asserted; whether the principles to be enforced shall pass through the ordinary process of legislation, and be recorded in our statute-books, or whether they shall be submitted to, and approved by, both parties, and embodied in a treaty. We have followed each course, without any very obvious difference in the principles or objects, which sometimes appear as a municipal regulation, and sometimes as a conventional arrangement; while, we believe, all other nations adopt the '*Sic volo*,' in their communications with the aboriginal tribes. And as 'their condition is gradually changing,' ‡ the time is probably not far distant, when our practice must change, and when the legislatures must speak to them as they speak to our own citizens, in terms of authority.

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* Chief Justice Spencer. Supreme Court of New York.—Johnson's Reports, Vol. XX. p. 193.

† Chancellor Kent, *ut supra*. The learned commentator, by the expression 'public safety,' did not mean to restrict this right of interference to cases involving actual danger. For we should then be left, and so would the British government, which has adopted the same course, without any justification for our laws regulating trade and intercourse with them, for the restrictions upon their power to convey their lands, and for many disabilities, or, more truly, protections, found in our statute-books. The permanent interest of both parties must be the measure of this 'public safety.'

‡ Chief Justice Spencer, *ut supra*.

But we must return to the letter which we have had under examination. The Secretary, after alluding to the rights acquired by Georgia under the cession of 1802, proceeds to consider the claim of the Indians, as expressed by themselves, to be 'unshackled' by 'the laws of the individual states, because independent of them.' And after showing the fallacy of the proposition, he states very forcibly the disastrous consequences of an interference by the President to stay the exercise of jurisdiction by the state of Georgia, even if her claim were a doubtful one. The question would be one admitting no common arbiter, and the delegation is emphatically told, that 'the President cannot and will not beguile them with such an expectation. The arms of this country cannot and will not be employed to stay any state of this union from the exercise of those legitimate powers which attach and belong to their sovereign character.' Whatever may be thought of the view of this question taken by the government, the frankness of the reply is worthy of praise. Nothing is concealed, and nothing left to conjecture. The Secretary then assures them, that the United States will afford them protection, and secure to them the occupation of their soil; that 'this is demanded by justice, and will not be withheld;' but that in 'doing this, the right of permitting to them the enjoyment of a separate government within the limits of a state, and of denying the exercise of sovereignty to that state, within her own limits, cannot be admitted.'

The subject of a removal from their present residence, and an establishment in the trans-Mississippian regions, is then introduced, and the considerations in favor of the measure are ably urged. We quote the following portions of the letter, because the views which are taken are practical and just, and are enforced in a spirit of kindness and humanity.

'The President desires me to say, that the feelings entertained by him towards your people, are of the most friendly kind; and that in the intercourse heretofore, in past times, so frequently had with the chiefs of your nation, he failed not to warn them of the consequences which would result to them from residing within the limits of sovereign states. He holds to them now no other language than that which he has heretofore employed, and in doing so, feels convinced, that he is pointing out that course, which humanity and a just regard for the interest of the Indians will be found to sanction. In the view entertained by him of this

important matter, there is but a single alternative,—to yield to the operation of those laws, which Georgia claims and has a right to extend throughout her own limits, or to remove, and by associating with your brothers beyond the Mississippi, to become again united as one nation, carrying along with you that protection which, there situated, it will be in the power of the government to extend. The Indians being thus brought together, at a distance from their white brothers, will be relieved from very many of those interruptions which, situated as they are at present, are without a remedy. The government of the United States will then be able to exercise over them a paternal and superintending care, to happier advantage; to stay encroachments, and preserve them in peace and amity with each other; while with the aid of schools, a hope may be indulged, that ere long industry and refinement will take the place of those wandering habits now so peculiar to the Indian character, the tendency of which is to impede them in their march to civilization.'

The delegation is then informed, that instructions had been given to remove from their lands certain persons, who had intruded upon them, and of whom they had complained.

The letter addressed by the Secretary of War to the Secretary of the Society for the Emigration, Preservation, and Improvement of the Indians, contains the same general views upon these topics as the preceding letter; with some difference, however, in the argument and illustrations, and an unequivocal disavowal of any intention on the part of the President to effect the removal of the Indians by compulsory measures. The appeal to the law and practice of other states, is strongly put, and the *reductio ad absurdum* clearly stated.

'From the conversations had with the President, recently and formally, on the subject of the Indians, I am satisfied, that no man in the country entertains towards them better feelings, or has a stronger desire to see them placed in that condition which may conduce to their advancement and happiness. But to encourage them to the idea, that within the confines of a state, they may exercise all the forms and requisites of a government, fashioned to their own condition and necessities, he does not consider can be advantageous to them, or that the exercise of such a right can be properly conceded. What would the authorities of the state of New York say to an attempt on the part of the Six Nations, to establish within her limits a separate and independent government; and yet their authority to do so would be as undeniable as that of the Creeks or Cherokees, within the territory of Georgia or Alabama. Would they agree,

that the Indian law of retaliation on the next of kin should be enforced, for the accidental killing of one of their own tribe ? * Or that nothing of trade and commerce by her citizens should take place within their limits, except in conformity to the provisions of their municipal code ? Would they consent to have their citizens rendered liable to be arraigned at the bar of an Indian court of justice, and to have meted out to them the penalties of their criminal code ? It is obvious that no state in the union would grant such authority. Concede, however, that these Indians are entitled to be considered sovereign within their own limits, and you concede everything else as matter of consequence. Admit the principle, and all is admitted.'

We have considered these able and interesting documents at some length, because they furnish the first disclosures, which have been publicly made by the executive department of the government, of its general views of the principles and policy of our Indian intercourse, since the message of Mr Monroe to Congress in 1825, communicating his sentiments upon the same subject. They are therefore important state-papers; and the doctrine maintained, and the purposes avowed, are well worthy of an impartial examination.

Three distinct propositions are deducible from these documents.

1. A direct avowal of the right of the individual states to assert and exercise jurisdiction over the Indians living within their limits, and an explicit declaration, that the general government will not interfere to prevent the exercise of this authority.

2. A conviction that the best interests of the Indians require their removal beyond the Mississippi, where only they can expect to increase and improve, and the advice of the President to them to adopt this course without delay ; in which case a suitable country will be assigned and guarantied to them, and the necessary aid furnished by the United States to enable them to remove, and to establish themselves comfortably in their new residence.

* Let the Supreme Court of the state of New York answer this apposite question. 'This statute not only asserts the exclusive jurisdiction of this state over all crimes or offences committed within the Indian reservations, but it expressly *negates* any jurisdiction to the Indian tribes to take cognizance of offences committed therein, even by those of their own tribe.'—Johnson's Reports, Vol. XX, p. 192.

3. A solemn assurance, that no force will be employed to effect their removal, and that those who decline to remove will be suffered to remain upon their lands, and protected in their right of occupation. To which may be added, that land may be laid off in fee to such families as remain, and as, we presume, may wish to receive it.

Such are the views of the American government upon this interesting topic. It is evident, from many circumstances, that the time has arrived, when some change is necessary in this branch of our policy. The public mind in our own country is agitated by the doubts and difficulties attending it; and the Indians themselves seem aware, that their fate must, ere long, be finally decided. If the subject is considered in a spirit of wisdom and moderation, that decision may lead to their ultimate prosperity.

As we have already touched incidentally upon the rights and duties of civilized states, in their intercourse with savage tribes residing within their borders, we shall not enter into a formal discussion of the subject. After a few remarks upon the general question, a reference to some authorities, and an appeal to some examples, we shall dismiss the topic.

The relations which the nations of the world bear to one another, have been deduced from general principles of expediency and natural law; discussed and illustrated by learned and able men; settled by the practice of many ages, and acquiesced in by all the governments, sufficiently advanced in knowledge and improvement to comprehend the subject and estimate its importance. Their attitude is that of entire independence, acknowledging no superiority and applying to no common arbiter. In all disputes which arise, the subject is discussed upon general principles of reason and international law; and few claims are now made or resisted, for which plausible arguments cannot be advanced by each party. If these discussions are unsuccessful, war must follow; for, as is observed by the Secretary of War, the 'sword is the alone arbiter in any community, where questions of adverse sovereignty and power are to be settled.' In the actual condition, however, of civilized states, powerful restraints are imposed upon any disposition which may exist to appeal with too much facility from reason to force. These are found in the moral sentiments of all rulers, in the acknowledged obligation of public law, in the efficacy of public opinion, in the certain in-

jury and uncertain issue of war, and to these we may add, among the nations of Christendom, the influence of the Christian religion. It is fortunate for the peace of mankind, that the general progress of improvement and diffusion of knowledge, which are now taking place, will extend the obligation of these causes, and add vigor to their operation. But there are barbarous tribes in the world, who do not feel the force of these restraints, who have neither religion nor morality, neither public opinion nor public law, to check their propensity for war; whose code requires them to murder, and not to subdue; to plunder and devastate, and not to secure. Are such tribes to be admitted into the community of nations, ignorant of everything but their own barbarous practices, and utterly regardless of their own promises, and of any higher obligations? While they occupy distant islands, or remain insulated amid the forests of an immense continent, the question is purely speculative. But when they approach a civilized region, or a civilized region approaches them, it assumes a character of great importance; and a just regard to their own safety requires the people thus brought into contact with them, to investigate and settle the principles of intercommunication. Such is and has long been the situation of the European colonies planted in America, and of the independent states which have arisen from them.

From the commencement of these settlements, a rude and barbarous people were around them and among them; a people whose only business was war and hunting; who acted from impulse more than from reason; whose customs required blood for blood, injury for injury, without looking to the intention of the party; who could not feel the obligation of general principles, nor engage in their discussion; who had no governments to guide or control them, no laws to restrain them, no officers to punish them; who had no permanent, settled residence, where they could be found, nor any property to defend; whose institutions irresistibly impelled them to war; whose young men were despised, until they had shed the blood of an enemy, and whose old men were disregarded when too feeble to pursue that enemy; who, in all their intercourse with the whites, seem to be actuated only by a fear of consequences, or by the hope of obtaining some advantage;—and it is our decided conviction, that these are the ruling motives which influence their conduct.

It is evident, that two such races cannot exist in contact, independent of each other. Their wars would soon come to be wars of extermination; or the civilized power, gaining the ascendency due to superiority in arms, intelligence, and improvement, would exercise a wholesome restraint over the conduct, and a general supervision over the concerns, of their barbarous neighbors. A jurisdiction of this nature is essential to the safety of both, and its extent must be determined by those who are called to exercise it. Acknowledging the force of these principles, and acting in conformity with them, we have already seen, that the various European nations, possessing colonies in America, have assumed complete authority over the aboriginal tribes remaining within their limits. And can it be doubted, if one of these tribes were placed upon the continent of Europe, that some of the surrounding powers would take it under their protection, and exercise a general superintendence over it? And this, without their consent, or even against it, but 'from the necessity of the case.' Thus, without going back to the question of right derived from conquest or discovery, or resorting to the received doctrine respecting the duty of cultivating the earth, it is enough for our present view, that we are here; and that, whether the original system of colonization were right or wrong, a just regard to the safety of both requires, that we should govern and they obey.

This general right of control is not subject to the artificial rules of construction already referred to, which too often defeat the wholesome operation of municipal law. It depends upon higher principles, and appeals to the moral sense of mankind. It is founded in what is termed, by the writers upon the law of nations, 'the right of security.' 'A nation may even,' says Vattel, speaking of the consequences of this right, 'if necessary, put the aggressor out of the condition to injure him. He makes use of his right in all these measures, when guided by reason.' * No candid man can look back upon the history of the Indians, or survey their habits, character, and institutions, without being sensible, that they are 'a nation of a restless and mischievous disposition,' and that 'all have a right to join in order to repress, chastise, and put it ever after out of its power to injure them.'

Nor can it be objected to the practical application of this

* 2 Vattel, Book ii. Chapter 4.

doctrine, that the Indians have improved in their manners and morals, and are now less disposed than formerly to molest our frontiers. Some of the most unprovoked aggressions and atrocious barbarities have been committed within a few years; and nothing but the absence of foreign aid, and the impression of our strength, prevents the renewal of the scenes at Fort Mimms, at the Maumee, and at the River Raisin.

The elementary writers of Europe have frequently discussed the questions of the relative rights and duties of civilized and savage nations, to which the discovery of the New World has given rise. And their conclusions are in conformity with the view we have presented. 'Vattel had just notions of the value of these aboriginal rights of savages, and of the true principles of natural law in relation to them. He observes, that the cultivation of the soil was an obligation imposed by nature upon mankind, and that the human race could not well subsist or greatly multiply, if rude tribes, which had not advanced from the hunter state, were entitled to claim and retain all the boundless forests through which they might wander. If such people will usurp more territory than they can subdue and cultivate, they have no right to complain, if a nation of cultivators puts in a claim for a part. Though the conquest of the half-civilized empires of Mexico and Peru was a palpable usurpation, and an act of atrocious injustice, the establishment of the French and English colonies in North America was entirely lawful; and the colonists have not deviated from the precepts of the law of nature, in confining the natives within narrower limits.' *

The same general doctrine, variously illustrated and modified, will be found in the works to which we have referred in the margin. Any of our readers, who are disposed to pursue this investigation farther, will meet with an ample field for their research in the consideration of this subject, and of the authors who have discussed it. †

In the case before referred to, of Johnson *versus* McIntosh,

* Kent's Commentaries, Vol. III. p. 313, 314.

† Penn *versus* Lord Baltimore, 1 Vesey, 445.—2 Rutherford's Institutes, 29.—Locke on Government, Book ii. Chapter 7, Sections 87, 89. Chapter xii. Section 143. Chapter ix. Sections 123, 130.—Jefferson's Notes, 126.—Colden's History of the Five Nations, 2-16.—Smith's History of New York, 35-41.—Montesquieu, Esprit des Lois, l. xviii. Chapters 11, 12, 13.—Smith's Wealth of Nations, Book v. Chapter 1.—Martens' Law of Nations, 67, 69.

in the Supreme Court of the United States, the Chief Justice says, that 'the United States then have unequivocally acceded to that great and broad rule by which its civilized inhabitants now hold this country. They hold, and assert in themselves, the title by which it was acquired. They maintain, as all others have maintained, that discovery gave an exclusive right to extinguish the Indian title by occupancy, either by purchase or by conquest, and *gave also a right to such a degree of sovereignty, as the circumstances of the people would allow them to exercise.*' *

And again, 'But the tribes of Indians inhabiting this country were fierce savages, whose occupation was war, and whose subsistence was chiefly drawn from the forest. To leave them in possession of their country, was to leave the country a wilderness; to govern them as a distinct people was impossible, because they were as brave and as high-spirited as they were fierce, and they were ready to repel by arms every attempt on their independence. What was the inevitable consequence of this state of things? The Europeans were under the necessity, either of abandoning the country and relinquishing their pompous claims to it; or of enforcing those claims by the sword, and by the adoption of principles adapted to the condition of a people with whom it was impossible to mix, and who could not be governed as a distinct society; or of remaining in their neighborhood, and exposing themselves to the perpetual hazard of being massacred. Frequent and bloody wars, in which the whites were not always the aggressors, ensued.' †

'For a long succession of years,' says the Supreme Court of New York, 'we have exercised an entire supremacy over all the tribes within the state, and have regulated by law their internal concerns, their contracts, and their property.' ‡

But leaving these views, founded upon principle and authority, let us inquire into the actual relations which have been established between the colonies and states of European descent, and the aboriginal tribes. And we believe it will be found, that no doubts have heretofore existed, respecting the extent of the jurisdiction they *could* exercise. The only doubt has been, how far expediency and discretion required, that jurisdiction *should* be exercised.

France, as we have already stated, never suffered her au-

* Wheaton's Reports, Vol. VIII. p. 587. † Idem, p. 590.
‡ Johnson's Reports, Vol. XX. p. 193.

thority to be controlled or questioned by the Indian tribes. Her laws and ordinances penetrated every part of her empire in America, and the extent of their operation was only determined by the sovereign power.

Spain, as is well known, assumed an entire jurisdiction over the savages occupying the country she acquired by conquest or discovery.

'In America every Indian is either an immediate vassal of the crown, or depends upon some subject, to whom the district, in which he resides, has been granted for a limited time, under the denomination of an *encomienda*.' *

'For the farther relief of men so much exposed to oppression, the Spanish Court has appropriated an officer in every district, with the title of Protector of the Indians. It is his function, as the name implies, to assert the rights of the Indians; to appear as their defender in the courts of justice; and by the interposition of his authority, to set bounds to the encroachments and exactions of his countrymen.' †

We need not go back to our colonial history, to discover the maxims of British policy upon this subject. From one end of her empire to the other, the acts of her Parliament are supreme, and all other authority bows before them. How far that nation has extended its authority over the territories of the Indians, will be seen by the following section of an act of the thirty-first of George the Third, passed August 11, 1803.

'That from and after the passing of this act, all offences committed within any of the Indian territories, or parts of America, not within the limits of either of the said Provinces of Lower or Upper Canada, or of any civil government of the United States of America, shall be, and shall be deemed to be, offences of the same nature, and shall be tried in the same manner, and subject to the same punishment, as if the same had been committed within the provinces of Lower or Upper Canada.'

The third section provides for the appointment of persons to issue process into any of the Indian territories, and authorizes the apprehension and conveyance to Lower Canada for trial, of any one guilty of any offence in said territories.

We imagine it would be difficult for Georgia or Alabama to pass a more comprehensive law than this, or one assuming more absolute jurisdiction.

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* Robertson's History of America, Book viii. † Idem.

The United States have provided, by municipal regulations, the mode in which trade shall be carried on in the Indian country, in which ardent spirits shall be excluded, trespasses punished, and horses purchased. Disabilities are imposed and securities are provided, evincing alike the opinion of Congress, that they possess jurisdiction over the Indian country, and that it was expedient to exercise it. Among the most important of the latter is the clause which creates a presumption in favor of an Indian who has ever been in possession of any property, the right of which is in dispute between him and a white man. The provision also, disabling Indians from selling clothing, cooking or farming utensils, arms, &c. is in fact an important protection. The military force is authorized to aid in the apprehension of offenders.

Who doubts that the authority which could enact the following clause, could embrace within its operation the whole 'life and conversation' of the Indians, did policy or necessity require it? It is a statute of the United States, and declares, 'that if any Indian, or other person or persons, shall, within the United States, or within any town, district, or territory, belonging to any nation or nations of Indians, commit any crime, offence, or misdemeanor, &c. he shall be punished, &c. Provided that no treaty stipulation shall be affected, and that the act shall not extend to any offence committed by one Indian against another within the Indian boundary.'

Connecticut, as early as 1669, extended the punishment for murder to all Indians living within the state; and in 1675, made it penal for any Indian to be drunk. In 1717, the civil authority is required to make the Indians acquainted with the laws of the state for the punishment of such immoralities as they may be guilty of, 'and make them sensible, that they are liable to the penalties, in case they transgress the laws.'

New York, as we have seen, has expressly taken from her Indian tribes all right to try and punish their own people, and has extended her criminal code over them, and rendered them responsible to her courts, declaring, that 'the sole and exclusive cognizance of all crimes and offences committed within this state, belongs of right to the courts holden under the constitution and laws thereof, as a necessary attribute of sovereignty.' *

* Johnson's Reports, Vol. XX. p. 192.

We may safely deduce, from this cursory examination, the general principle, that civilized states have a right to extend their jurisdiction over tribes of savages living within their limits; and that in the practical application of this principle, the usage has varied from an absolute jurisdiction, leaving no distinction between Indians and other citizens and subjects, to that general supervision exercised by the United States over the more remote tribes, which leaves in full vigor all their institutions. Each state must judge for itself, how much of this authority it will relinquish or retain.

Our peculiar form of government presents for consideration one question, which cannot exist in a monarchy or in a consolidated republic. Is the jurisdiction, which we may be called upon to exercise over the Indian tribes, to be assumed by the authorities of the confederation, or of the state, within which such tribes reside? It is a question growing out of our own municipal institutions, to be determined by ourselves, in which other nations have no right to interfere, and the decision of which can give no just cause of complaint to the Indians.

We have seen that the executive department of the Union has conceded the existence of this right in the state governments, and we think a few observations will be sufficient to show, that it is a concession demanded by the principles of our government, and by the usage which has prevailed among many of the members of the confederation. In the consideration of questions involving the powers of Congress and of the state legislatures, one principle of construction seems firmly established; that the latter possess all the legislative authority which is not withheld from them, and that the former possess none which is not granted to them. The power of the states, *ex vi termini*, extends over all the persons and objects within the boundaries of the states. This power, in the words of the statute of New York already referred to, is '*a necessary attribute of sovereignty.*' Has that portion of it, which operates upon the Indians, been granted to the general government? To the constitution of the general government we must look for the resolution of this question. And the only provision we there find, relating to the Indians, is the third clause of the eighth section, which grants to Congress the power 'to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.' Certainly this is too narrow a foundation upon which to erect so broad a superstruc-

ture, as that which would include within it the whole of the concerns of the Indians. The regulation of commerce can by no fair interpretation include, within the sphere of its operation, all the acts and duties of life, and thus confer the power of exclusive legislation. And the less so, as the same clause extends this power of regulating commerce to the intercourse with foreign nations, and among the several states; over the former of which Congress can have no legislative power, and over the latter a legislative power in certain specified cases only.

To the general government is also given authority to 'make all needful rules and regulations respecting the *territory*, or other property belonging to the United States.' But this power has no necessary connexion with the usual process of legislation. The jurisdiction over the territory may be in the states, and the power to dispose of it in the United States. And such, in fact, is the operation of this clause.

Congress regulate as they please the disposal of the public lands, punish trespasses upon them, and have created a system for their survey and sale and settlement. But the persons living upon these lands, before their sale, are subject, as well as afterwards, to the jurisdiction of the states within which they lie.

We are aware, that the treaty-making power may affect this branch of the inquiry. Treaties have been formed by the United States with most of the Indian tribes, and it is now too late to call in question their obligation, or the power of the government to conclude them; although it is difficult to point to any provision of the Constitution, which expressly or necessarily grants this power. The practice had prevailed under the Confederation, where the grant of power, relating to the Indians, was more comprehensive than in the Constitution. Instead of regulating commerce only, it conferred upon Congress the power of 'regulating the trade and management of *all affairs* with the Indians, not members of any of the states, provided that the legislative right of any state within its own limits be not injured or violated.'

And this practice was probably continued by the new government, from a conviction of its utility, and from the relations of peace and war, which were allowed to exist between the United States and the Indian tribes. It is another of the anomalies, of which the general subject is so fruitful. If it

were a question now to be agitated for the first time, the decision would probably be adverse to the exercise of the power. But we consider it as settled by this practical exposition, and that all the rights, secured to the Indians by these treaties, are beyond the reach of any difference of opinion, which may exist among ourselves, concerning the relative power of the various parties to our government. And if, in these compacts, any pledge has been given, that the Indians shall be exempt from the legislative authority of the states within which they live, we have only to submit to an improvident stipulation, and leave them free, whatever be the consequences. But such an assurance cannot be found. The possession of their lands is guarantied to them, and this guarantee the President has avowed his determination to respect. It will be, we have no doubt, respected by the state governments.

We have cursorily examined the statutes of Rhode Island, Connecticut, New York, Pennsylvania, and Virginia, and in each of these we find laws passed to restrain or protect the Indians, founded upon the general sovereignty of the states, and upon their assumption of jurisdiction over these persons and their property. Such laws may exist in all the states. We have not been able to extend the inquiry farther.

This question of jurisdiction over the Indian tribes is now, for the first time, seriously agitated. Heretofore, no one among them, or for them, has denied the obligation of any law passed to protect or restrain them. But new circumstances have intervened, and new pretensions are advanced. A government *de facto* has been organized within the limits of the state of Georgia, claiming legislative, executive, and judicial powers, and all the essential *attributes of sovereignty*, independent of that state.

The establishment of this government, thus claiming to be independent, and the probability, that a similar policy will be adopted by the other southern tribes, by which means they may become permanently established in their present possessions, necessarily presents to the states, within whose limits they reside, a serious question for consideration. It is evident, that if this pretension be not resisted now, resistance hereafter will be in vain. It is one of those questions, eminently practical, which a few years' acquiescence would settle. What might now be the assertion of a just and proper jurisdiction by the civilized communities, might then be an unjust claim, to be enforced only by war and conquest.

We have already expressed our convictions, founded on some knowledge of the Indian character, and of the efforts which have been formerly and recently made to change their condition and institutions, that so long as they retain positions surrounded by our citizens, these efforts will be unproductive, and that the Indians themselves will decline in numbers, morals, and happiness. If 'these things are so,' no just views of policy or humanity, require on their part the assertion of such a right, or the acknowledgment of it on ours. A false conception of their own interest, or a temporary excitement, which may have operated on some of their influential men, and led to the present state of things, ought not to affect our views or decision. This demand is now made, for the first time, since the discovery of the continent. Writers upon natural law, courts of high character and jurisdiction, the practice of other nations, are all adverse to it. We can discern no advantages which either party can reasonably anticipate from such a measure.

There can be none to the Indians; for if they are anxious and prepared for a stable government, which shall protect all and encourage all, such governments they will find in the states where they reside. What has a Cherokee to fear from the operation of the laws of Georgia? If he has advanced in knowledge and improvement, as many sanguine persons believe and represent, he will find these laws more just, better administered, and far more equal in their operation, than the *regulations* which the chiefs have established and are enforcing. What Indian has ever been injured by the laws of any state? We ask the question without any fear of the answer. If these Indians are too ignorant and barbarous to submit to the state laws, or duly estimate their value, they are too ignorant and barbarous to establish and maintain a government which shall protect its own citizens, and preserve the necessary relations and intercourse with its neighbors. And if there are any serious practical objection to the operation of these laws, growing out of the state of society among the Indians, it would be easy for the state authorities to make such changes and interpose such securities as would protect them now, and lead them hereafter, if anything can lead them, to a full participation in political rights.

New York has acted upon this principle, in authorizing the Brothertown Indians to hold town meetings and elect town

officers. No doubt can exist of the disposition of the state legislatures thus to accommodate their laws to the actual condition of the Indians. And in fact it is the criminal and not the civil code, from which they have anything to fear. The former extends to them all, and at all times, and in its process, its prohibitions, and its punishments, introduces regulations utterly at variance with all they have seen, or heard, or believed. The rights and remedies, secured and provided by the civil code, would affect them less, as they have little for them to operate upon, and the obligation of a promise is not wholly unknown to them. But the experiment has already been made, in many of the states, of extending over them the action of the criminal laws, and, as we have seen, the general government has done the same, through the whole vast extent of the Indian country, however rude or barbarous may be the tribes inhabiting it, in all cases where an injury has been committed against a white man. We have yet to learn, that any injustice has resulted from this legislation.

But if it is difficult to perceive the advantages which the Indian tribes would derive from these independent governments, it is not difficult to foresee the mischiefs they would produce to the states and people, within whose limits they might be formed.

The progress of improvement would be checked. Extensive tracts of land would be held by the Indians in a state of nature. The continuity of settlements, and the communication between them, would be interrupted. Fugitives from labor and justice would seek shelter, and sometimes find it, in these little sovereignties. Questions of conflicting jurisdiction would frequently occur, not easy to be determined; for in vain might we search for principle, analogy, or precedent, by which to adjust them. There is already enough of the *imperium in imperio* in our government. Another wheel is not wanted, to render the machinery still more complicated. In the whole extent of Christendom, can a single instance be produced, where a state has voluntarily permitted, within its acknowledged boundaries, the establishment of a government, independent of, and unconnected with its own? Faithless to themselves would be those states interested in this subject, and regardless of their duties of 'self-preservation,' which, Vattel says, are obligatory upon all nations, were they to assent expressly, or by implication, to these demands.

But in the firm assertion of their rights, it becomes them cautiously and tenderly to approach this subject. The character of our country is involved in it. Many excellent men believe, that the Indians have advanced, and are advancing in knowledge and improvement, and that they have both the right and ability to reorganize their political institutions, and assume a station which shall be coequal with the state governments. Erroneous as such an opinion is, both in principle and policy, still something is due to the feelings and motives of those who entertain it. In the practical assertion of jurisdiction, which circumstances now require some of the state governments to make, their authorities will no doubt accommodate their measures to the helpless, defenceless, and sometimes, we fear, hopeless condition of the Indians; taking care that such checks and limitations are imposed, as their ignorance and the superior intelligence of the whites may render necessary.

Impressed with the conviction, that a removal from their present position and from the vicinity of our settlements, to the regions beyond the Mississippi, can alone preserve from final extinction the remnant of our aboriginal population, a number of benevolent men have associated themselves, and established a society under the appellation of 'The Indian Board, for the Emigration, Preservation, and Improvement of the Aborigines of America,' the objects of which are distinctly indicated by this title. The Society avows its intention to 'afford to the emigrant Indians all the necessary instruction in the arts of life and the duties of religion,' and pledges itself 'to coöperate with the federal government of the United States in its operations on Indian affairs, and at no time to contravene its laws.' The constitution and first proceedings of the society are contained in the pamphlet named at the head of this article; and the same pamphlet contains also an address from Colonel McKenney to the Society, and a letter from that gentleman to Mr Evarts, in both of which the general subject of Indian emigration is considered, and in the latter the peculiar circumstances of the Southern tribes are stated and explained.

Colonel McKenney's investigations into the condition of the Indians, and into the causes which have obstructed their advancement in civilization and religion, and have counteracted our efforts to improve them, are just and striking, and evince an intimate knowledge of their character and disposition.

'Need I stop to demonstrate,' he observes, 'how utterly impracticable it is, to remodel the Indian character, and fashion it after the civilized form, situated as those tribes are within our states? Where is the example of a single transformation in a tribe, of this sort? I know of not one. But I know of many, in which, even amidst efforts the most untiring, the Indians have (although individuals have profited) disappeared; until, now, many of our states, that once swarmed with an Indian population, contain not a vestige of one. Whence comes this decay and final disappearing of the red before the white man? It comes not of the color, nor of physical nor moral malformation, nor of destiny, —but from causes the most natural, which a change in our relations to each other would work, even upon us. The elements may all be found to be in the intellectual, moral, political, and social relations which exist between them and us.'

In his Address to the society, Colonel McKenney takes a rapid glance at the efforts which have been made to meliorate the condition of the Indians. He does justice to the ardent zeal and untiring labor of 'the Eliots, the Mayhews, and Brainerds, and Kirklands,' and all who, before our day and in our day, have devoted themselves or their treasure to this holy work. He also does justice to the result of these efforts, when he describes them as unavailing and unproductive; having no permanent effect, and leaving no permanent memorial. His analysis of the moral and physical obstacles which have prevented success, corresponds with the view we have already presented. They are found in the recesses of the human heart, and in the external circumstances which have moulded the character of the Indian, and taught him to walk through his own world of forest and game, satisfied with himself, and dreading no evil but a change in his condition. The following considerations are stated with fairness and candor.

'That men, and good men, should differ in their views of what ought to be done for the preservation and improvement of our Indians, is natural. We know there are men, and good men, who are opposed to the emigration of the Indians. We respect them and their motives. They seek to save and civilize these people. We profess to aim at the accomplishment of the same end, and differ only as to the mode. We once entertained similar views of this question with them, and thought it practicable to preserve and elevate the character of our Indians, even in their present anomalous relations to the states, but it was "distance that lent

enchantment to the view." We have since seen for ourselves, and that which before looked like flying clouds, we found, on a nearer approach, to be impassable mountains. We believe, if the Indians do not emigrate, and fly the causes which are fixed in themselves, and which have proved so destructive in the past, *they must perish.* We might distrust our own conclusions, though derived from personal investigation, did not experience confirm them. But alas! it is the admonition of experience, more than anything else, that claims and urges us to employ all honorable means to persuade these hapless people to acquiesce in the policy which is proposed to them.'

Colonel McKenney discloses some important facts, which would justify the interposition of the government to secure to individuals in the various tribes, disposed to emigrate, their own choice, unawed and uninfluenced.

'We esteem it to be our duty, on this occasion, to correct an error which has obtained in regard to this business of emigration. It seems to be thought by some, that the Indians are opposed to removal, and that force is meditated to be employed to compel them to go. In regard to the disposition of the *great body* of the Indians within our states, we speak advisedly when we say, they are *anxious to remove.* The present excitement is occasioned, in great part, by the opposition of those persons, whose interest it is to keep the Indians where they are. Protection has actually been sought of the government by those who wish to better their destiny, against the threats of others, in which an enrolment for emigration has been forbidden on pain of death. This may be received as the real state of the case, obtained in good part by us on personal opportunities, and from official information, confirming our observation and experience. In regard to the employment of force, to drive the Indians from the country they inhabit, so far from this being correct, they have been told by the Executive, in one of the documents read to you to-night, that if they choose to remain, they shall be protected in all their rights.'

The plan for their removal, establishment, and gradual improvement, sketched by Colonel McKenney, is just to ourselves, and liberal to them; offering a fair exchange of property, insuring present subsistence and future support, and holding out rational prospects of melioration in their external circumstances and their moral relations.

'It is proposed in the first place to give them a country, and to secure it to them by the most ample and solemn sanctions, suitable in all respects, in exchange for theirs; to pay them for all their improvements, and see them, free of cost, to their new

homes; to aid them after their arrival, and protect them; to put over them at once the frame-work of a government, and to fill this up, as their advancement in civilization may require it; to establish schools over their country, for the enlightening of the rising generation, and give them the gospel. In fine, it is proposed to place them in a territorial relation to us in all respects, and in the enjoyment of all the privileges consequent upon such a relation, civil, political, and religious. Thus will they attain an elevation to which, in their present relations, they can never aspire. And then would new influences be created, ennobling in their tendencies, and animating in their effects. Under these the Indian would rise to the distinction to which he has always been a stranger, and live and act, with reference to the corresponding honors and benefits of such a state.'

Those who have regarded with deep interest the condition of the Indians, and who doubt the issue of any attempt to save them upon their present reservations, have looked with much anxiety to the country west of the states and territories beyond the Mississippi, for a land of refuge, where this unhappy race may find rest and safety. Their misfortunes have been the consequence of a state of things which could not be controlled by them or us. Planted, as our ancestors were, in the course of Providence, upon the skirts of a boundless forest, they gradually subdued it by toil and industry. Year after year, the cultivated border advanced, bearing before it the primitive people, who would not mingle with their invaders, and who could not stop their progress. The decree had gone forth, that the race of pale men should *increase and multiply*, and they did *increase and multiply*. Who, that looks upon human life as it is, could expect, that superiority in arts, in arms, in intelligence, in all the elements of physical and moral power, would not elevate the one party and depress the other; and that this elevation and depression, rendered still more obvious by characteristic differences, could not produce the results which history has recorded? And who, under such circumstances, would impeach the motives or conduct of the adventurers or their descendants, because the people, who preceded them, disappeared or receded before the circle of civilization? Not the nations of Christendom, for they sent out their colonies to take possession of the new-found world, and to supplant its primitive inhabitants. Not the government or people of England, for their sovereigns assumed jurisdiction over immense regions, and granted them by their charters, encouraging

them in peace, protecting them in war, and extending their sway, without any regard to the imperfect right given by their mode of life to the Indians. Not the jurist, who deduces from maxims of natural law the duty of reclaiming and cultivating the earth. Not the practical politician, who surveys the principles and progress of society, satisfied with their operation, and with the circumstances which control it. The testimony of Vattel is too honorable to the character of the first occupants of our country to be withheld. 'People have not then deviated from the views of nature, in confining the Indians within narrower limits. However, we cannot help praising the moderation of the English Puritans, who first settled in New England [and he might have added, the first settlers of the other colonies], who, notwithstanding their being furnished with a charter from their sovereign, purchased of the Indians the lands they resolved to cultivate. This laudable example was followed by Mr William Penn, who planted the colony of Quakers in Pennsylvania.' *

For many years after the first settlement of the country, the colonists were engaged in the duty of self-preservation, and they had neither leisure nor inclination coolly to examine the condition of the Indians, and investigate the causes of their degradation, and the mode by which they might be counteracted. And when they began to survey the subject, the facts were not before them, as they are before us. That the Indians were borne back by the flowing tide, was evident; but that this tide would become a deluge, spreading over the whole country, and covering the summits of the loftiest mountains, could not be foreseen, and was not anticipated. Nor was it known, that these people were incapable of permanent improvement, upon fixed reservations, within the limits of the civilized country. The duty, therefore, of providing a residence for them, where they could say to this ocean, heretofore as irresistible as the great deep itself, 'Thus far shalt thou come, but no farther,' neither the government nor the people understood. The infant communities became powerful colonies; the colonies, independent states, and these states a great empire. Their boundaries were established, and their jurisdiction was granted or assumed. New territories, and eventually new states, were formed, each looking to its own political advance-

* Vattel, Book i. Chapter 18.

ment, and to the extension of population and cultivation over its dominion, with an anxiety as natural and salutary, as that which impels individuals onwards in the strife for wealth and influence. And now, when we begin to suspect, that the white man and the red man cannot live together, we find no country where we can plant, and nourish, and protect those children of misfortune, until we pass the farthest limits of the governments formed beyond the Mississippi. There is a region belonging to the United States, admirably adapted to the situation and habits of the Indians, where no state authorities have, or can have jurisdiction, and where no attempt will be made to disturb or molest them. Because no permanent barrier has heretofore been raised between them and us, let it not be supposed, that a country, occupied by them and guarantied to them, upon the Red river and the Arkansas, would not secure them from future demands. There would be neither local government nor people to urge the extinction of their title. No claim could be interposed to conflict with theirs. And if, in the course of ages, our population should press upon that barrier, it would be after the Indians had acquired new habits, which would cause our intercourse to be without danger to them and without pain to us, or after they had yielded to their fate and passed the Rocky Mountains, or disappeared. These are events too remote to influence any just view of this subject.

In 1825, Mr Monroe, then President of the United States, submitted to Congress his own views and those of Mr Calhoun, then Secretary of War, on the condition and prospects of the Indians, with a plan for their transmigration and for their permanent settlement in a new region. These eminent statesmen, in looking back upon the history, progress, and consequences of our intercourse with them, could discover no prospect of their preservation and improvement but in a retreat beyond a fixed and stationary boundary, where they might be relieved from that ceaseless pressure, which, like an incubus, paralyzes their exertions, and where our citizens could neither mingle with, nor surround them. 'Under the operation of existing causes,' says Mr Calhoun, 'they behold the certain degradation, misery, and even final annihilation of their race, and no doubt would gladly embrace any arrangement which would promise to elevate them in the scale of civilization, and arrest the destruction which now awaits them.' Mr Monroe is equally

decided in the avowal of his opinion. 'Experience,' he says, 'has clearly demonstrated, that, in their present state, it is impossible to incorporate them, in such masses, in any form whatever, into our system. It has also demonstrated, with equal certainty, that without a timely anticipation of, and provision against, the dangers to which they are exposed, under causes which it will be difficult, if not impossible to control, their degradation and extermination will be inevitable.'

The plan, thus enforced, and ably supported and illustrated, has been so long before the public, and is so well known, that we shall merely state its outlines; referring such of our readers as feel interested in the subject, and are ignorant of its details, to these valuable state-papers, equally conspicuous for the soundness of their views and for the spirit of humanity in which they are conceived.

Briefly then, it was proposed, that negotiations should be opened with the various tribes east of the Mississippi, for the purpose of explaining to them the views of the government, and procuring their assent to a removal west of that river; that ample means should be provided for their support, both on the journey and during a reasonable period after their arrival in their new country; that a sufficient extent of suitable territory should be assigned and guarantied to them; that a government should be provided for them, to the administration of which they should be admitted, as soon as they were fitted, from time to time, for that duty, by education and habits; and that a system of education, looking to their eventual emancipation from the thraldom of their ignorance and prejudices, and their participation in the advantages of civilization and religion, should be adopted and vigorously supported.

Nothing can evince more strongly the tender caution with which Congress approaches the subject of our Indian relations, than the delay which even the consideration of this project has encountered. Five years have elapsed, since, by an executive Message, it was spread before the national legislature and the country, and it has not yet been formally considered. Were we justly liable to the serious charges which have gone forth against us in some of the foreign journals, of indifference to the situation of the Indians, and of a desire to oppress them, the subject would long since have been disposed of. But it is because we are not indifferent, and because, we say it in a spirit of submission to the feelings of others, a false humanity

has led us to postpone taking those decided measures which, the experience of every year proves more and more, can alone meet the exigencies of the case, and rescue the Indians from inevitable destruction. We have ourselves felt doubts upon this interesting subject, and we felt them when this project was first conceived and communicated. But they have gradually given way before the experiments we have seen, and before the imposing circumstances which have gathered and are gathering around this controversy.

Again we have the sanction of an executive recommendation of the same measure, supported in like manner by the views and illustrations of the present Secretary of War. To the duties and high responsibility of Mr Monroe, the President adds an intimate knowledge of the Indians, of their habits, character, and condition, acquired during many years' intercourse with them, while ably and faithfully serving his country in high civil and military stations. The opinions of such a man, given under such circumstances, are entitled to great consideration.

On one point only has he proceeded farther than Mr Monroe, and that is, in the unequivocal avowal of his opinion, that the states can extend their jurisdiction over all persons living within their boundaries, and an explicit declaration, that the Indians will not be supported by the United States in any efforts to resist this procedure. And who does not see, that the time has arrived, when this question must be fairly met? The interval, which has elapsed since the promulgation of Mr Monroe's views, has been pregnant with events deeply interesting to the parties, whose relative rights and duties are involved in this controversy. The Cherokee government is acquiring the sanction of time, and their claim has assumed a definite shape. The laws of Georgia will operate upon them on the thirtieth of June next, and their chiefs have formally appealed to the general government for protection against this measure, urging their claim to be independent of that state, and affirming, that this act is to be viewed 'in no other light, than a wanton usurpation of power, guarantied to no state, neither by the common law of the land, nor by the laws of nature.'

It was necessary that this appeal should be answered. And it has been answered, as we have seen, in a spirit of just regard to the Indians and to the rights of a member of the confederacy. And what rational man could expect any other an-

swer? Is the general government to interpose the arm of power between the state of Georgia or Alabama, and the assertion of rights essential to their 'attributes of sovereignty?' A President of the United States would assume a fearful responsibility, who should thus employ the force of the Union. It would be presumptuous to say, that such a case can never occur. But we may safely predict, that when it does come, it will shake the confederacy to its centre, and that a foreign war would be light in the balance, compared with such a fearful calamity. And who does not see, that in this contest for sovereignty, the uncivilized tribes must yield? Do not truth and humanity equally require the declaration of this fact? There is no mercy in suffering these Indians to believe, that their pretensions can be established and their independent government supported. In the actual state of the world, none but an enthusiast can expect or hope for the success of such a scheme. We have long passed the period of abstract rights. Political questions are complicated in their relations, involving considerations of expediency and authority, as well as of natural justice. If the laws of the various states, founded essentially upon the English common law, modified by our peculiar circumstances, and administered in a spirit of fidelity and impartiality, which even in this land of violent political feuds, has left the judiciary without suspicion, excite the apprehensions of the Indians, and if they are anxious to escape from their operation and establish governments for themselves, ample provision has been made for their gratification. A region is open to them, where they and their descendants can be secured in the enjoyment of every privilege which they may be capable of estimating and enjoying. If they choose to remain where they now are, they will be protected in the possession of their land and other property, and be subject, as our citizens are, to the operation of just and wholesome laws.

We cannot enter into a full examination of the effect of planting colonies of Indians in the Western regions. From the retrospective view furnished by their history, it is evidently the only means in our power or in theirs, which offers any probability of preserving them from utter extinction. As a *dernier resort* therefore, apart from the intrinsic merits of the scheme itself, it has every claim to a fair experiment. But when viewed in connexion with the peculiar notions and mode of life of the Indians, the prospect it offers is consolatory to every

reflecting person. Upon this subject we shall adduce the opinion of an able and dispassionate laborer in the great field of aboriginal improvement. The reverend Mr McCoy has for many years devoted himself with an industry, equalled only by his zeal and disinterestedness, to the life and labor of a missionary. Ten years since, he commenced a school for the instruction of youth, at Fort Wayne in Indiana, but the progress of the settlements soon compelled him to retire, and he removed his establishment to the St Joseph of Lake Michigan. He here founded an institution for the benefit of the Indians, and adopted a course of procedure well calculated to be permanently beneficial to them. The youths were taught reading, writing, and arithmetic, and also agriculture, the mechanic arts, and domestic duties. Their mental discipline, moral advancement, and progress in the business and occupations of life, went on together. The principal and his coadjutors were indefatigable in their application, and sanguine in their expectations, and for a time everything promised success. And we ourselves, from a personal examination of the establishment, augured favorably of its permanence and usefulness. We have never seen a similar institution managed with more purity or judgment. But the novelty soon wore off, the Indians became dissatisfied, the institution has declined, and Mr McCoy is convinced, that nothing but removal, and speedy and entire removal, can save from utter ruin those who have been taught, or those who are untaught. During the year 1828, he repaired to the country west of the Mississippi, to examine its adaptation to the purposes of the Indians, and has returned, satisfied with the prospect it offers. He is now directing his efforts to procure their emigration. Such a man has a right to speak upon this subject, and we shall quote some passages from an interesting pamphlet he has published.

'You have your missionaries at Gayhead, Stockbridge, Brothertown, Oneida, among the Tuscaroras, Tonnewantas, Senecas, Wyandots, Ottawas, Potawatamies, Miamies, &c.; but the most they can do in the present posture of affairs, is to soften, as it were, the pillow of the dying. They have been instrumental in benefiting a few; nevertheless, in a national point of view, all these tribes, as well as others near at hand, west of Lake Michigan and west of the Mississippi river, continue to dwindle,—they are positively perishing, and perishing rapidly.

'Through the instrumentality of your missionaries, some of

the natives, no doubt, have become pious, and have gone, or will go, to a better country in the heavens, where their condition will be ordered by principles, very different from those which have governed the conduct of men towards them while upon earth. A few have acquired some knowledge of letters and of labor; so far, this is well. But let none imagine, that these tribes and many others are, as tribes, improving their condition generally. I say it without fear of contradiction, that their condition is becoming more and more miserable every year. I repeat it,—*they are positively perishing.*'

'It is a lamentable truth, that the evil [the use of ardent spirits] increases annually, and occasions a fearful waste of human life. As a specimen, take the following. In the fall and winter of 1825—6, in the neighborhood of the Carey Missionary Station, near Lake Michigan, twenty-five Indians were either directly murdered by the hands of their own people, or otherwise *lost their lives by drunkenness.*'

'I took the liberty, not long since, of suggesting, that the condition of these small bands, who are on little reservations in New England, New York, and Ohio, surrounded by white population, is worse than that of those who have more latitude on our frontier. It is probable they may be more plentifully supplied with food and raiment, but I have no hesitation in repeating, that their numbers decrease faster than those of the other tribes; and that they are more debased in principle, and positively more worthless, than those with whom I am comparing them. This sentiment is the result of my own personal observation, as well as of the concurrent testimony of the most authentic information.'

'But we say, that their depravity and sufferings have been increased by our proximity to them, and their hopes cut off by our policy. They are too deeply sunk in the mire, to be able to extricate themselves. It therefore rests with us to say, whether they shall be left to perish, or whether they can be or shall be "taken out of the horrible pit and miry clay, and set upon a rock, and their goings established,"—or rather, they established in a home which they can call *their own.*'

'But let the policy of our government, in relation to them, continue as it has been and as it now is, and with the exception of the Cherokees * and their immediate neighbors, I know of no tribe, nor part of a tribe, no, not one, within, or near to all the frontiers of Arkansas, Missouri, Illinois, Indiana, Michigan, or

* Mr McCoy is ignorant of the actual state of things among the Cherokees, and of the utter poverty and misery, and we may add, oppression, of the great body of these people.

Ohio, not one of those bands on small reservations in New York or New England, of whom we can indulge any better hope than that of their total extermination. Even over those, whom we have excepted above, a gloomy cloud is gathering, of which we shall speak hereafter.

'I fear the public are not fully aware of this fact, especially the Christian public, who would more especially shudder at the thought, and who have been hoping for better things. I fear too, that missionaries are sometimes afraid to tell the worst part of the story, lest the benevolent societies and individuals, who patronize the missions, should become discouraged, and decline the undertaking. I know that there cannot exist with them any sinister motive to such a forbearance, because their labors, the labors of their whole lives, are gratuitously devoted to this enterprise. But they have been eye-witnesses of Indian wickedness and sufferings. They have heard fathers begging them to have mercy on them and their offspring, and entreating them not to forsake them; they have seen the mother digging roots for her children, and have beheld the emaciated frames of those who, in winter, had lived weeks upon acorns only, or who, in summer, had fed for days upon boiled weeds alone. They have heard the cries of children suffering with hunger, and seen the frozen limb of the half naked sufferer.'

Although we do not coincide with Mr McCoy in all the opinions advanced by him, particularly in his views of some of the more prominent obstacles which have impeded, or rather prevented, the progress of the Indians in civilization and improvement, yet in his general statement of their condition, and the utter failure of our hopes and efforts, we unite our testimony with his; as we do also, when he urges the necessity of removal, of speedy and entire removal, if a remnant of this race is to be saved. Mr McCoy, from personal observation, describes the country west of Missouri and Arkansas, as suitable for the colonization and permanent residence of the Indians. 'This country,' he says, 'is generally high, healthy, rich, its extent adequate to the purposes under consideration, and the climate desirable.' He approves the general plan originally submitted by Mr Monroe and Mr Calhoun, and recommended anew by the present Executive and the Secretary of War, of removing, with their own consent, the various tribes to that region, and establishing over them such a government as will protect, and restrain, and improve them. The details of such a plan he considers at length, obviating the objections which may be urged against it, and stating and explaining the

considerations immediately or remotely favorable to its adoption. The length of our article already warns us, that we have neither time nor space to devote to this branch of the subject. And it is the less necessary, because the first object is to satisfy the country, the government, and the Indians, that this great measure of removal is the only remedy for the evils which we have depicted. And if the conviction of its importance should lead to its adoption, and to the voluntary acquiescence of the Indians, it would be easy to regulate hereafter the practical details of the subject, and to accommodate them to the progress and prospects of the migrating colonists and of the permanent settlements formed by them.

We have been led, in the preceding discussion, to a general consideration of the complicated relations, subsisting between the United States in their federative and their individual characters, and the various Indian tribes which yet survive to demand their care and protection. We trust that our sentiments upon one branch of this subject will not be misunderstood. In asserting the ultimate title of the general or state governments to the land lying within their respective jurisdictions and occupied by the Indians, we interpose no claim to the possession, without their free consent. And for all useful purposes, this is the only interest they can enjoy; particularly as their right of disposal is restricted to a sale to the proper government, or to those to whom the right of purchase has been assigned. We have presented our views and illustrations of this subject, not because the Indians can be practically affected by it, but because it involves interesting considerations, both historical and juridical, and meets the objections of speculative writers who maintain the absolute title of the Indians, and seem disposed to carry this claim to its legitimate consequences; to the right of conveyance, whensoever and howsoever they may feel disposed to exercise it.

Since our first intercourse with the aborigines, they have generally been ready to cede this possessory interest, as fast as it was required by our advancing settlements. Had it been otherwise, and had they been determined to retain extensive regions, out of all proportion to their numbers and wants, our ancestors would have been driven to a practical recognition of the doctrine asserted by the elementary writers, and taken such districts as were necessary for the relief of a superabundant population. It is not now probable, that this question can

ever present itself for actual solution. But there is another, the consideration of which is perhaps much nearer, and which we may soon be required to discuss and decide. That a considerable portion of the Southern tribes has been restrained by fear from acceding to the propositions for a cession and emigration, is evident from the statement made by Colonel McKenney, already quoted, from the murder of McIntosh, from some sanguinary regulations which the men of influence have adopted, and from many circumstances that have found their way to the public. In the civil polity of the Cherokees, and, we believe, of the Creeks, as now established, there seems to be a severalty of property among themselves, regulated we know not how, and a community of property with respect to the federal and state governments. Cessions can only be made in a preestablished manner; and the principles of Draco are revived in these little communities, by the terrible punishments annexed to a violation of this regulation, which will no doubt be enforced with as little compunction as it has been prescribed. But why should a community of property be allowed for this purpose and for no other? Why should not a part of the population be permitted to cede their interest to the government, and receive an equivalent in other regions, where they may anticipate a comfortable support and a permanent establishment? Must they be anchored to a soil which they are desirous of leaving, and where they are poor and depressed, because a few powerful chiefs choose to be surrounded by abject dependents, rather than be brought into contact with our citizens, and subjected to the operation of just and equal laws? We state the case plainly, as we are satisfied the truth demands. Let the son of the Big Warrior enjoy in peace and security the six-score slaves and the fifty thousand dollars, he is reported to have inherited from his father; and let the other chiefs, both among the Creeks and Cherokees, whom it would be invidious to mention, possess in like manner the property they have acquired, whether in money, in slaves, or in valuable improvements. But let those, who have not been and cannot be thus fortunate, go to the Western regions, if they desire to go; not in abject poverty, suffering and dying on the way, but after having yielded their interest in their ancient possessions for a valuable consideration, and obtained another in their new; and obtained also the means of subsistence on the route, and after their arrival and permanent establishment.

Let the right thus acquired by the government, and the right remaining to those who choose to stay behind, be equitably divided. There would be no difficulty in a partition upon just principles. If one moiety be prepared to go, let a moiety of the land be assigned to the State or the United States; and if one fourth, let a fourth be assigned; and if only one man is anxious to change his residence and attempt to meliorate his condition, for ourselves we can see no objection to the purchase of his interest, and to its partition from the general stock, whenever the government may deem such a measure expedient.

It is idle to meet this proposition by the assertion, that the Cherokee or other Indian authorities have prohibited this course of procedure, and would visit it with the punishment of death, and that they have a right to enforce their own regulations in their own way. In the actual state of things, they have no such right. The attempt itself is an omen unfavorable to their future prosperity. If their first essay in the science of government is to sink a tomakawk into the heads of all their people who may endeavor to relinquish their present possessions, and migrate where they can acquire others, which may, or may be supposed to be, better, it is time that the paramount authority should interfere and abolish institutions thus written in blood. The mode of acquiring the possessory right of the Indians is a question of expediency and not of principle. Far be it from us to advocate any proposition, which would divest them unjustly of the smallest interest, to which they are entitled. But we propose that their interest should be rendered more secure and more valuable, by assigning to every one, a separate share, and the power to retain or to cede it; and this might essentially aid the whole and could injure none. It would insure to each a just compensation, and would put an end to that system of gratuities and annuities, which all, who have eyes to see and ears to hear, must be sensible, has been so grossly abused by many of the chiefs of the southern tribes, and has rendered them rich and their countrymen poor. And it would put an end to influence unjustly acquired and unjustly exerted.

This view is distinctly stated by Mr Jefferson in his talk to the Cherokees in 1809. 'When this party shall have found a tract of country suiting to the emigrants and not claimed by other Indians, we will arrange, with you and them, the exchange

of that for a just portion of the country they leave, and *to a part of which, proportioned to their numbers, they have a right.*' And in the treaty concluded at the Cherokee agency, July 8, 1817, this principle of a division of the community and a partition of the land, was substantially adopted, and a provision made for its practical application and adjustment. The assent of the whole tribe was given to that measure. But if that assent is now withheld whenever any of their people are desirous of passing over the Mississippi, the freedom of choice and action should be assured to them, and their interest fairly purchased, and equitably separated from the common stock.

But after all, it cannot be denied and ought not to be concealed, that in this transplantation from the soil of their ancestors to the plains of the Mississippi, some mental and corporeal sufferings await the emigrants. These are inseparable from the measure itself. But by an appropriation liberally made, and prudently applied, the journey may be rendered as easy for them, as for an equal number of our own people. By a continuation of the same liberality, arrangements may be made for their comfortable support, after their arrival in the land of refuge, and until they can accommodate themselves to the circumstances of their situation; until they can secure from the earth or the forests, the means of subsistence, as they may devote themselves to the pursuits of agriculture or of the chase.

The amount of the expenditure necessary for their migration and establishment is not a subject for serious consideration. All should be given, and all no doubt will be given, that can be reasonably employed in their comfortable support. It is not a question of profit or loss, but a great question of national policy, involving the rights and feelings of those, from whom we have obtained much, and for whom we have done little.

Providence, for wise purposes, has given to us, in common, principles of association which bind us together and connect us with the land of our birth, and with those who have inhabited it before us. These associations of time and place belong to the human family. 'Bury me not, I pray thee, in Egypt,' said the Patriarch who had gone down to live and die with his son; 'but I will lie with my fathers, and thou shalt carry me out of Egypt and bury me in their burying-place.' And from the earliest migration of a community recorded in profane history, to the latest that has occurred in our own day,—from the going

forth of the remnant of Troy, to the abandonment of Parga, when her whole people went out houseless and homeless, leaving the waning crescent to glimmer over a deserted region,—the feelings of the exiles have been expressed by the Trojan leader;

> 'Litora tum patriæ lacrymans portusque relinquo,
> Et campos ubi Troja fuit.'

Although the Indians are migratory in their habits, yet their local attachments are strong and enduring. *The sepulchres of their fathers* are as dear to them, as they ever were to the nations of the East. Those ties have bound them to their native regions longer and stronger than any other or all other considerations. Now, when the time of severance has approached, we owe it to them, to ourselves, to the opinion of the world, that the process should be conducted with kindness, with liberality, and above all, with patience. The assurance of the Secretary of War 'that nothing of a compulsory course to effect the removal of this unfortunate race of people has ever been thought of by the President, although it has been so asserted,' is honorable to the government, and consolatory to those who are looking with most solicitude to the condition of the Indians. The intimation of the Secretary that the object of the President was 'to explain fully to them and to the country, the actual ground on which it was believed they were rightly entitled to stand,' is equally in accordance with justice, policy, and the public feeling.

This is the course we had a right to expect, and to which there can be no just objection. Let the whole subject be fully explained to the Indians. Let them know that the establishment of an independent government is a hopeless project; which cannot be permitted, and which, if it could be permitted, would lead to their inevitable ruin. Let the offer of a new country be made to them, with ample means to reach it and to subsist in it, with ample security for its peaceful and perpetual possession, and with a pledge, in the words of the Secretary of War, 'that the most enlarged and generous efforts, by the government, will be made to improve their minds, better their condition, and aid them in their efforts of self-government.' Let them distinctly understand, that those who are not disposed to remove, but wish to remain and submit to our laws, will, as the President has told the Creeks, 'have land laid off for them and their families, in fee.' When all this is done, no

consequences can affect the character of the government, or occasion regret to the nation. The Indians would go, and go speedily and with satisfaction. A few perhaps might linger around the site of their council-fires; but almost as soon as the patents could be issued to redeem the pledge made to them, they, would dispose of their possessions and rejoin their countrymen. And even should these prefer ancient associations to future prospects, and finally melt away before our people and institutions, the result must be attributed to causes, which we can neither stay nor control. If a paternal authority is exercised over the aboriginal colonies, and just principles of communication with them, and of intercommunication among them, are established and enforced, we may hope to see that improvement in their condition, for which we have so long and so vainly looked.

ART. IV.—*An Historical and Statistical Account of Nova-Scotia, in two Volumes, illustrated by a Map of the Province, and several Engravings.* By THOMAS C. HALIBURTON, Barrister at Law, and Member of the House of Assembly of Nova-Scotia. Halifax. 1829. 8vo.

MR. HALIBURTON, the author of these volumes, we understand, is a citizen of Annapolis in Nova-Scotia, a young lawyer of respectability, and a member of the House of Assembly. He has given us a history and description of his native province, which not only do great credit to himself, and to Nova-Scotia, but will safely bear a comparison with any of the works of a similar kind, that have appeared in the United States. Making use of Mr Haliburton's work, and of some little knowledge derived from personal observation, we will proceed to lay before our readers a few particulars respecting that province.

The continent or mainland of North America was discovered by Sebastian Cabot. He first descried land on the twenty-fourth of June, 1497. There is reason to believe, that the point which he then made was a part of Nova-Scotia. More than seventy years, however, elapsed before any attention was paid by England to the discovered territory.